

January 25, 2012

By Federal Express and email

Superintendent of Insurance of the State of New York
as Liquidator of Midland Insurance Company
123 William Street
New York, New York 10038-3889
Attn: Estates Management
Gail Pierce-Siponen, Director

**Re: Claim Amendment
Cornell-Dubilier Electronics, Inc.
Policy Nos. XL-145488, XL-148163**

Dear Ms. Pierce-Siponen:

Cornell-Dubilier Electronics, Inc. ("CDE") submits this Claim Amendment pursuant to the June 21, 2011 Decision and Order in *In the Matter of the Liquidation of Midland Insurance Company*, Index No. 41294/1986 (Sup. Ct. NY). CDE submitted its original Proof of Claim on or about December 9, 1986 and now amends that submission with the following:

I. THE POLICIES

CDE was an insured under two Midland Policies. CDE was an insured under Policy No. XL 145488, which was an excess liability policy issued to CDE's corporate parent, Federal Pacific Electric Company ("FPE"). This policy covered the period from April 22, 1975 through to April 1, 1978 and provided annual policy limits of \$10 million. (Exhibit A)

CDE was also an insured under Policy No. XL 148163 which provided a \$5 million part of \$10 million in policy limits for the period April 1, 1978 to April 1, 1979. This policy was issued to CDE's then corporate parent, UV Industries Inc. (Exhibit B)

II. CDE'S CLAIMS

A. South Plainfield, New Jersey Site

The South Plainfield Site was operated by CDE from the 1930s until the early 1960s. CDE conducted manufacturing operations there which at some times involved polychlorinated biphenyls ("PCBs") and solvents -- the two contaminants found in the soil, groundwater, and surface water at, under, and downgradient from the Site. On February 4, 1997, the U.S. EPA notified CDE that it was a potentially responsible party under CERCLA with respect to the South Plainfield Site. (Exhibit C)

EPA has divided the Site into four operable units -- the first operable unit relating to surface contamination at neighboring properties ("OU1"), the second operable unit relating to surface and subsurface soil contamination at the property that housed the manufacturing operations ("OU2"), the third operable unit relating to groundwater contamination ("OU3"), and the fourth operable unit relating to surface water and sediment contamination ("OU4"). In a court proceeding, *In re Dana Corporation*, 07 Civ 8160(SAS)- (Bkrt'y S.D.N.Y.), EPA estimated the cost of the remedy at the South Plainfield Site at approximately \$313 million as follows:

OU1	\$5,629,000
OU2	\$154,730,000
OU3	\$44,762,900
OU4	\$108,222,400
Total	\$313,344,300

(Exhibit D) That estimate does not include natural resource damages which EPA has advised CDE may run between \$50 million and \$100 million given the extensive contamination of the regional aquifer and surface waters. As of September 30, 2011, EPA's past costs were in excess of \$ 133 million. (Exhibit E)

CDE has litigated coverage issues at the South Plainfield Site with its other insurers in an action in New Jersey Superior Court, *Home Insurance Company v. Cornell-Dubilier Electronics, Inc.*, Civil Action Nos. MER-L-5192-96, MER-L-2773-02 (N.J. Super. Mercer Cty) ("CDE Coverage Action"). On March 4, 2004, the New Jersey Court after a trial determined that New Jersey law applied and that CDE was entitled to coverage with respect to the South Plainfield Site. (Exhibit F)

B. Dismal Swamp, New Jersey Site

EPA claims that this site was operated as an unlicensed dump and that CDE's wastes were deposited at that dump. On both July 6, 2001 and September 23, 2002, CDE received notice from EPA that it was a potentially responsible party under CERCLA with respect to the Dismal Swamp Site. (Exhibit G)

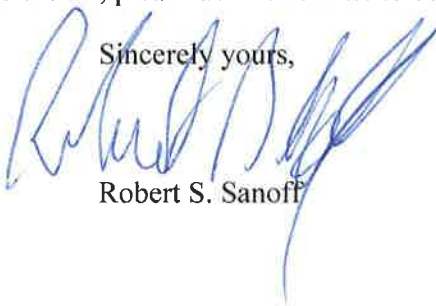
The Site is a large area located in wetlands which apparently was used as an unlicensed commercial and/or municipal dumpsite from the 1940s to the 1960s. See EPA's Site Narrative (<http://www.epa.gov/superfund/sites/npl/nar1648.htm>). The Site is about two miles away from CDE's former manufacturing facility in South Plainfield. EPA's preliminary analysis of environmental conditions at the Dismal Swamp indicates a large area of PCBs and heavy metal contamination. It appears that solid waste, including, for example, electrical components, some bearing the logo of CDE, were disposed of at Dismal Swamp. The current owner of the property is conducting the RI/FS for the Site. EPA has advised CDE that cleanup costs will likely exceed \$50 million.

On 19 March 2007, the Court in the CDE Coverage Action granted summary judgment against CDE's insurers in favor of CDE on the issue of insurance coverage for this Site. (Exhibit H).

III. CONCLUSION

CDE believes that the large sums at issue in these two sites have triggered coverage under the Midland policies, particularly because the limits of the excess policies underlying the Midland Policies have been exhausted or severely eroded. Should you require any further information in relation to any of these claims, please do not hesitate to contact me.

Sincerely yours,



Robert S. Sanoff

RSS/l
Attachments (Exhibit A-H)

EXHIBIT A

POLICY No. XL 145488

EXCESS LIABILITY POLICY

STOCK COMPANY

Renewal of XL New



MIDLAND INSURANCE COMPANY

One State Street Plaza, New York, New York 10004

DECLARATIONS

Item 1. Name Insured and Address: (No., Street, Town, County, State)
 Federal Pacific Electric Company &/or
 UV Industries, Inc.
 437 Madison Avenue
 New York, New York 10022

Johnson & Higgins P.C. 0033400

Item 2. Policy Period:

From April 22, 1975 to April 1, 1978
 12:01 A. M., standard time at the address of the named insured as stated herein.

JOHNSON & HIGGINS
 INSURANCE BROKERS

EMPLOYEE BENEFIT PLAN CONSULTANTS
 95 WALL ST., NEW YORK 10005 482-2000

Item 3. Underlying Insurance: Excess Umbrella Liability

- | | |
|----------------------------|---|
| A) Lexington Ins. Co. | \$1,000,000 each occurrence and aggregate where applicable excess primary. |
| B) Kemper Ins. Co. | \$4,000,000 each occurrence and aggregate where applicable excess (A) above. |
| C) Lexington Ins. Co. | \$5,000,000 each occurrence and aggregate where applicable excess (B) above. |
| D) Aetna Casualty & Surety | \$10,000,000 each occurrence and aggregate where applicable excess (C) above. |

Item 4. Limits of Coverage

Hereunder: \$10,000,000 each occurrence and aggregate where applicable excess
 Item 3 (D) above.

Item 5. Premium: \$11,032.50 flat payable as follows:
 4/22/75 \$3,532.50
 4/1/76 \$3,750.00
 4/1/77 \$3,750.00

CORNELL 003087

Item 6. Cancellation: Thirty (30) Days.

Date: 7/29/75 al

Response to Request # 3

By: 
 Authorized Representative

MIDLAND INSURANCE COMPANY

(A stock insurance company, herein called the company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all terms of this policy, agrees with the insured named in Item 1 of the declarations as follows:

TERMS AND CONDITIONS

INSURING AGREEMENT

1. The Company hereby indemnifies the Insured against ultimate net loss in excess of and arising out of the hazards covered and as defined and in excess of the underlying insurance as shown in Item 3 of the Declarations (hereinafter referred to as "underlying insurance") but only up to an amount not exceeding the limit(s) shown in Item 4 of the Declarations.

2. Except as may be inconsistent with this Policy, the coverage provided by this Policy shall follow the insuring agreements, conditions and exclusions of the underlying insurance (whether primary or excess) immediately preceding the layer of coverage provided by this Policy, including any change by endorsements. The Company shall be notified of any change in coverage or premium in such underlying insurance and copies thereof shall be furnished to the Company upon request.

3. The limits of the underlying insurance shall be maintained in full effect during the currency of this Policy except for reduction of such limits by exhaustion of aggregate limits (if any) contained therein solely by payment of claims resulting from accidents or occurrences happening during the period thereof. Failure of the Insured to comply with the foregoing shall not invalidate this Policy but in the event of such failure the company shall be liable only to the extent that it would have been liable had the Insured complied therewith.

4. Unless aggregate limits are specifically stated in Items 3 and 4 of the Declarations, the coverage provided by this Policy applies only with respect to each accident or occurrence for limits in excess of the amount provided for same in the underlying insurance and does not apply over any reduced amount of underlying insurance in the event of the exhaustion or reduction of aggregate limits (if any) in the underlying insurance.

5. If aggregate limits are specifically stated in Item 3 and 4 of the Declarations, this Policy will apply in excess of reduced underlying insurance provided such reduction in the underlying insurance is solely the result of accidents or occurrences happening after the inception date of this Policy. The Insured shall give the Company written notice as soon as possible of any reduction or exhaustion of such aggregate limit in the underlying insurance.

6. If more than one insured is named in the Declarations such additional Insured(s) shall not have the effect of increasing the Company's limit of liability for each accident or occurrence stated in Item 4 of the Declarations.

PREMIUM

7. Premium due the Company for this excess insurance shall be that amount shown in Item 5 of the Declarations and is payable upon delivery of this Policy.

NOTICE OF LOSS

8. The Insured shall immediately advise the Company of any accident or occurrence which appears likely to result in liability under this Policy and of subsequent developments likely to affect the Company's liability hereunder. At no time shall the Company be called upon to assume charge of the settlement or defense of any claims made or suits brought or proceedings instituted against the Insured, but the Company shall have the right and shall be given the opportunity to associate with the Insured or its underlying insurer or insurers, or both, in the control, defense and/or trial of any claims, suits or proceedings which, in the opinion of the Company, involves or appears reasonably likely to involve the Company. If the company avails itself of such right and opportunity, the Insured, any underlying insurer or insurers and the Company shall cooperate in the control, defense and/or trial of such claims, suits or proceedings, so as to affect a final determination thereof. Failure on the part of the Insured or the underlying insurer or insurers to cooperate shall relieve the Company, at its option, of liability under this Policy.

9. The Insured shall be solely responsible for the investigation, settlement, defense and final disposition of any claim made or suit brought or proceeding instituted against the Insured to which this Policy would apply and which no underlying insurer or insurers is obligated to defend. The Insured shall use due diligence and prudence to settle all such claims and suits which in the exercise of sound judgment should be settled, provided, however, that the Insured shall not make or agree to any settlement for any sum, in excess of the underlying insurance, without the approval of the Company.

10. The Insured shall (a) cooperate with the underlying insurer or insurers, as required by the terms of the underlying insurance, (b) comply with all the terms and conditions thereof and (c) enforce any right of contribution or indemnity against any person or organization who may be liable to the Insured, because of liability with respect to which insurance is afforded under this Policy and the underlying insurance.

LOSS PAYABLE

11. The Company's obligation to pay any ultimate net loss and costs with respect to any accident or occurrence falling within the terms of this Policy shall not attach until the amount of the applicable underlying limit has been paid by or on behalf of the Insured on account of such accident or occurrence. The Insured shall make claim for any ultimate net loss and costs under this Policy within a period of not exceeding twelve (12) months after, (a) the Insured shall have paid ultimate net loss in excess of the underlying limit, with respect to any accident or occurrence, or (b) the Insured's obligation to pay such amounts shall have been finally determined, either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the company.

12. All losses covered by this Policy shall be due and payable by the Company within thirty (30) days after claim has been presented and proper proof of payment of ultimate net loss and costs has been submitted, all in accordance with the terms above.

ULTIMATE NET LOSS AND COSTS

13. Ultimate net loss, as used herein, shall be understood to mean the sums paid in settlement of losses for which the Insured is liable after making deductions for all recoveries, salvages and other insurances (other than recoveries under the underlying insurance, policies of co-insurance, or policies specifically in excess hereof), whether recoverable or not, and shall exclude all "Costs".

14. The word "costs", as used herein, shall be understood to mean interest on judgments, investigation, adjustment and legal expenses including taxed court costs and premiums on bonds, for which the Insured is not covered by the underlying insurance (excluding, however, (a) all expenses for salaried employees and counsel on general retainer, (b) all office expenses of the Insured, and (c) regular fees paid to counsel on general retainer.

15. Costs incurred by the Insured, with the written consent of the Company, shall be apportioned as follows:

- (a) in the event of claim or suit arising which appears likely to exceed the underlying insurance limit or limits, no Costs shall be incurred by the Insured without the written consent of the Company.
- (b) should such claim or suit be settled previous to going into court for not more than the underlying insurance limit or limits, then no Costs shall be payable by the Company.
- (c) should, however, the sum for which the said claim or suit may be settled exceed the underlying insurance limit or limits, then the Company, if it approves such settlement or consents to the proceedings continuing, shall contribute to the Costs incurred by the Insured in the ratio that its proportion of the ultimate net loss as finally adjusted bears to the whole amount of such ultimate net loss.
- (d) in the event the Insured elects not to appeal a judgment in excess of the underlying insurance limit or limits, the Company may elect to conduct such appeal at its own cost and expense and shall be liable for the taxable court costs and interest incidental thereto, but in no event shall the total liability of the Company exceed its limit or limits of liability as stated above, plus the costs of such appeal.
- (e) in the event a judgment is rendered in excess of the underlying insurance limit or limits and the underlying insurer or insurers elect to appeal such judgment, the duty of obtaining an appeal bond in regard to liability in excess of the underlying insurance limit or limits shall rest with the Insured and its underlying insurer or insurers.

SUBROGATION AND SALVAGE

16. All salvages, recoveries or payments recovered or received subsequent to a settlement under this Policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the Insured and the Company, provided always that nothing in this clause shall be construed to mean that losses under this Policy are not recoverable until the Insured's ultimate net loss has been finally ascertained.

17. Inasmuch as this Policy is Excess Insurance, the Insured's right of recovery against any person cannot be exclusively subrogated to the company. It is, therefore, understood and agreed that in case of any payment hereunder, the Company will act in concert with all other parties (including the Insured) concerned, in the exercise of such rights of recovery. The apportioning of any amounts which may be so recovered shall follow the principle that any parties (including the Insured) that shall have paid an amount over and above any payment hereunder, shall first be reimbursed up to the amount paid by them, the company is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly the parties (including the Insured) of whom this coverage is in excess are entitled to claim the residue, if any. Expenses necessary to the recovery of any such amounts shall be apportioned between the parties (including the Insured) concerned, in the ratio of their respective recoveries as finally settled.

18. Nothing herein contained shall be construed to mean that the Insured shall be required to enforce by legal action any right of subrogation or indemnity before the Company shall pay any loss covered hereunder.

TERM

19. This Policy applies only to accidents or occurrences happening between the effective and expiration dates shown in Item 2 of the Declarations, unless otherwise cancelled.

NUCLEAR INCIDENT EXCLUSION

20. It is agreed that this Policy does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction

- (a) with respect to which an insured under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provisions relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if

- (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
- (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
- (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used herein:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material; "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor "waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means

- (a) any nuclear reactor,
 - (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
 - (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
 - (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,
- and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

21. This Policy may be cancelled by either party upon written notice, such notice to be not less than the number of days set forth in Item 6 of the Declarations. If cancellation is at the request of the Insured, adjustment of premium shall be at short rate and if cancelled by the Company, adjustment shall be pro rata. However, in the event of cancellation or non-renewal of the underlying insurance immediately preceding this Policy, this Policy terminates as of the same date without notice to the Insured. The Company may, however, cancel this Policy absolutely on five (5) days' notice for non-payment of premium due. Notice shall be given by the Insured to the Company at One State Street Plaza, N.Y., N.Y. 10004 and by the Company to the Insured at the latter's address as shown in the Declarations. Notice by the Company to the first Named Insured, if more than one, shall be deemed notice to any other interests included as an Insured.

IN WITNESS WHEREOF the Midland Insurance Company has caused this Policy to be signed by its President and Secretary, but same shall not be binding upon the Company unless countersigned by an authorized representative of the Company.

Karl E. Dyer Secretary

James P. Craig President

A836091

ENDORSEMENT #1

Effective Date 4/22/75

It is hereby understood and agreed that coverage as is afforded
by this policy shall not apply to:

UV Industries, Inc.

Attached to and made a part of Policy No. XL 145488 of MIDLAND INSURANCE COMPANY
issued to Federal Pacific Electric Company
Countersigned: At: New York, N.Y./al Date 7/29/75

Karl E. Djerf
Karl E. Djerf, Secretary
By James P. Craig
Authorized Representative

James P. Craig
James P. Craig, President

ORIGINAL

CORNELL 003091

A836092

ENDORSEMENT #2

Effective Date 4/22/75Subject to Annual Review

The policy(ies), periods and carrier(s) stated in Schedule A, Schedule of Underlying Insurance, shall be understood to include renewals of replacements thereof. The Insured agrees to furnish the Company a current summary of such Underlying Insurance within 90 Days after the expiration of each policy year.

Attached to and made a part of Policy No. XL 145488 of MIDLAND INSURANCE COMPANY
issued to Federal Pacific Electric Company etal
Countersigned: At: New York, New York/al Date 7/28/75

Karl E. Dierl
Karl E. Dierl, Secretary
By George P. Brown
Authorized Representative

James P. Craig
James P. Craig, President

ORIGINAL

CORNELL 003092

ENDORSEMENT #3

Effective Date 4/22/75

In consideration of the premium charged, it is understood and agreed that WHEREAS, the period of the Primary and/or Underlying policy or policies including renewals or replacements thereof, with respect to which this policy applies in excess is or may be non-concurrent with the period of this policy;

NOW, THEREFORE, in consideration of the premium for which this policy is written, in the event of reduction or exhaustion of the aggregate limit or limits contained in such Primary and/or Underlying policy or policies solely by payment of losses in respect to accidents or occurrences during the period of such Primary and/or Underlying policy or policies it is hereby understood and agreed that such insurance as is afforded by this policy shall apply in excess of the reduced underlying limit or, if such limit is exhausted, shall apply as underlying insurance, notwithstanding anything to the contrary in the terms and conditions of this policy.

Attached to and made a part of Policy No. XL 145488 of MIDLAND INSURANCE COMPANY
issued to Federal Pacific Electric Company
Countersigned: At: New York, New York/al Date 11/17/75
Karl E. Djerf James P. Craig
Karl E. Djerf, Secretary James P. Craig, President
By James P. Djerf
Authorized Representative

ENDORSEMENT

A836094

Effective Date 4/1/76

Additional Premium: \$8,250.00

In consideration of an additional premium of \$8,250.00,
it is understood and agreed that the premium due April
1, 1976 is amended to \$12,000.00.

It is further agreed that the installment due April 1, 1977
is amended to \$12,000.00.

Effective 4/1/76 12:01 AM Standard Time, this Endorsement No. #4
attached to and made a part of Policy No. XL 145 488 of MIDLAND INSURANCE COMPANY
issued to Federal Pacific Electric Company

(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations
of this policy other than as above stated.

4/7/76

By Karl E. Dier
Karl E. Dier, Secretary
James P. Craig
Authorized Representative

James P. Craig
James P. Craig, President

ORIGINAL

CORNELL 003094

EXHIBIT B

POLICY No. XL 148163

Renewal of XL 145489



MIDLAND INSURANCE COMPANY

One State Street Plaza, New York, New York 10004

EXCESS LIABILITY POLICY

STOCK COMPANY

A836080

DECLARATIONS

Item 1. Name Insured and Address: (No., Street, Town, County, State)

U.V. Industries Inc.
437 Madison Avenue
New York, New York 10022

Johnson & Higgins N.Y.
P.C. # 8533400

Item 2. Policy Period:

From April 1, 1978 to April 1, 1979
12:01 A.M., standard time at the address of the named insured as stated herein.

EXCESS UMBRELLA LIABILITY

Item 3. Underlying Insurance: \$20,000,000 each occurrence and in the aggregate where applicable, excess of various primary insurance.

Item 4. Limit(s) of Coverage
Hereunder:

\$5,000,000 part of \$10,000,000 each occurrence and in the aggregate where applicable, excess above.

Item 5. Premium:

\$25,000.00 Flat charge.

Item 6. Cancellation:

Thirty (30) days subject to item 21
of the terms and conditions,
Date: 8/29/78 GD/sg


Authorized Representative

CORNELL 003448

MIDLAND INSURANCE COMPANY

A836081

(A stock insurance company, herein called the company)

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all terms of this policy, agrees with the insured named in Item 1 of the declarations as follows:

TERMS AND CONDITIONS

INSURING AGREEMENT

1. The Company hereby indemnifies the Insured against ultimate net loss in excess of and arising out of the hazards covered and as defined and in excess of the underlying insurance as shown in Item 3 of the Declarations (hereinafter referred to as "underlying insurance") but only up to an amount not exceeding the limit(s) shown in Item 4 of the Declarations.

2. Except as may be inconsistent with this Policy, the coverage provided by this Policy shall follow the insuring agreements, conditions and exclusions of the underlying insurance (whether primary or excess) immediately preceding the layer of coverage provided by this Policy, including any change by endorsements. The Company shall be notified of any change in coverage or premium in such underlying insurance and copies thereof shall be furnished to the Company upon request.

3. The limits of the underlying insurance shall be maintained in full effect during the currency of this Policy except for reduction of such limits by exhaustion of aggregate limits (if any) contained therein solely by payment of claims resulting from accidents or occurrences happening during the period thereof. Failure of the Insured to comply with the foregoing shall not invalidate this Policy but in the event of such failure the company shall be liable only to the extent that it would have been liable had the Insured complied therewith.

4. Unless aggregate limits are specifically stated in Items 3 and 4 of the Declarations, the coverage provided by this Policy applies only with respect to each accident or occurrence for limits in excess of the amount provided for same in the underlying insurance and does not apply over any reduced amount of underlying insurance in the event of the exhaustion or reduction of aggregate limits (if any) in the underlying insurance.

5. If aggregate limits are specifically stated in Item 3 and 4 of the Declarations, this Policy will apply in excess of reduced underlying insurance provided such reduction in the underlying insurance is solely the result of accidents or occurrences happening after the inception date of this Policy. The Insured shall give the Company written notice as soon as possible of any reduction or exhaustion of such aggregate limit in the underlying insurance.

6. If more than one insured is named in the Declarations such additional Insured(s) shall not have the effect of increasing the Company's limit of liability for each accident or occurrence stated in Item 4 of the Declarations.

PREMIUM

7. Premium due the Company for this excess insurance shall be that amount shown in Item 5 of the Declarations and is payable upon delivery of this Policy.

NOTICE OF LOSS

8. The Insured shall immediately advise the Company of any accident or occurrence which appears likely to result in liability under this Policy and of subsequent developments likely to affect the Company's liability hereunder. At no time shall the Company be called upon to assume charge of the settlement or defense of any claims made or suits brought or proceedings instituted against the Insured, but the Company shall have the right and shall be given the opportunity to associate with the Insured or its underlying insurer or insurers, or both, in the control, defense and/or trial of any claims, suits or proceedings which, in the opinion of the Company, involves or appears reasonably likely to involve the Company. If the company avails itself of such right and opportunity, the Insured, any underlying insurer or insurers and the Company shall cooperate in the control, defense and/or trial of such claims, suits or proceedings, so as to affect a final determination thereof. Failure on the part of the Insured or the underlying insurer or insurers to cooperate shall relieve the Company, at its option, of liability under this Policy.

9. The Insured shall be solely responsible for the investigation, settlement, defense and final disposition of any claim made or suit brought or proceeding instituted against the Insured to which this Policy would apply and which no underlying insurer or insurers is obligated to defend. The Insured shall use due diligence and prudence to settle all such claims and suits which in the exercise of sound judgment should be settled, provided, however, that the Insured shall not make or agree to any settlement for any sum, in excess of the underlying insurance, without the approval of the Company.

10. The Insured shall (a) cooperate with the underlying insurer or insurers, as required by the terms of the underlying insurance, (b) comply with all the terms and conditions thereof and (c) enforce any right of contribution or indemnity against any person or organization who may be liable to the Insured, because of liability with respect to which insurance is afforded under this Policy and the underlying insurance.

LOSS PAYABLE

11. The Company's obligation to pay any ultimate net loss and costs with respect to any accident or occurrence falling within the terms of this Policy shall not attach until the amount of the applicable underlying limit has been paid by or on behalf of the Insured on account of such accident or occurrence. The Insured shall make claim for any ultimate net loss and costs under this Policy within a period of not exceeding twelve (12) months after, (a) the Insured shall have paid ultimate net loss in excess of the underlying limit, with respect to any accident or occurrence, or (b) the Insured's obligation to pay such amounts shall have been finally determined, either by judgment against the Insured after actual trial or by written agreement of the Insured, the claimant and the company.

12. All losses covered by this Policy shall be due and payable by the Company within thirty (30) days after claim has been presented and proper proof of payment of ultimate net loss and costs has been submitted, all in accordance with the terms above.

CORNELL 003445

ULTIMATE NET LOSS AND COSTS

13. Ultimate net loss, as used herein, shall be understood to mean the sums paid in settlement of losses for which the Insured is liable after making deductions for all recoveries, salvages and other insurances (other than recoveries under the underlying insurance, policies of co-insurance, or policies specifically in excess hereof), whether recoverable or not, and shall exclude all "Costs".

14. The word "costs", as used herein, shall be understood to mean interest on judgments, investigation, adjustment and legal expenses including taxed court costs and premiums on bonds, for which the Insured is not covered by the underlying insurance (excluding, however, (a) all expenses for salaried employees and counsel on general retainer, (b) all office expenses of the Insured, and (c) regular fees paid to counsel on general retainer.

15. Costs incurred by the Insured, with the written consent of the Company, shall be apportioned as follows:

- (a) in the event of claim or suit arising which appears likely to exceed the underlying insurance limit or limits, no Costs shall be incurred by the Insured without the written consent of the Company.
- (b) should such claim or suit be settled previous to going into court for not more than the underlying insurance limit or limits, then no Costs shall be payable by the Company.
- (c) should, however, the sum for which the said claim or suit may be settled exceed the underlying insurance limit or limits, then the Company, if it approves such settlement or consents to the proceedings continuing, shall contribute to the Costs incurred by the Insured in the ratio that its proportion of the ultimate net loss as finally adjusted bears to the whole amount of such ultimate net loss.
- (d) in the event the Insured elects not to appeal a judgment in excess of the underlying insurance limit or limits, the Company may elect to conduct such appeal at its own cost and expense and shall be liable for the taxable court costs and interest incidental thereto, but in no event shall the total liability of the Company exceed its limit or limits of liability as stated above, plus the costs of such appeal.
- (e) in the event a judgment is rendered in excess of the underlying insurance limit or limits and the underlying insurer or insurers elect to appeal such judgment, the duty of obtaining an appeal bond in regard to liability in excess of the underlying insurance limit or limits shall rest with the Insured and its underlying insurer or insurers.

SUBROGATION AND SALVAGE

16. All salvages, recoveries or payments recovered or received subsequent to a settlement under this Policy shall be applied as if recovered or received prior to such settlement and all necessary adjustments shall then be made between the Insured and the Company, provided always that nothing in this clause shall be construed to mean that losses under this Policy are not recoverable until the Insured's ultimate net loss has been finally ascertained.

17. Inasmuch as this Policy is Excess Insurance, the Insured's right of recovery against any person cannot be exclusively subrogated to the company. It is, therefore, understood and agreed that in case of any payment hereunder, the Company will act in concert with all other parties (including the Insured) concerned, in the exercise of such rights of recovery. The apportioning of any amounts which may be so recovered shall follow the principle that any parties (including the Insured) that shall have paid an amount over and above any payment hereunder, shall first be reimbursed up to the amount paid by them, the company is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly the parties (including the Insured) of whom this coverage is in excess are entitled to claim the residue, if any. Expenses necessary to the recovery of any such amounts shall be apportioned between the parties (including the Insured) concerned, in the ratio of their respective recoveries as finally settled.

18. Nothing herein contained shall be construed to mean that the Insured shall be required to enforce by legal action any right of subrogation or indemnity before the Company shall pay any loss covered hereunder.

TERM

19. This Policy applies only to accidents or occurrences happening between the effective and expiration dates shown in Item 2 of the Declarations, unless otherwise cancelled.

NUCLEAR INCIDENT EXCLUSION

20. It is agreed that this Policy does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction

- (a) with respect to which an insured under this Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provisions relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if

- (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
- (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
- (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used herein:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or byproduct material; "source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235.

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

21. This Policy may be cancelled by either party upon written notice, such notice to be not less than the number of days set forth in Item 6 of the Declarations. If cancellation is at the request of the Insured, adjustment of premium shall be at short rate and if cancelled by the Company, adjustment shall be pro rata. However, in the event of cancellation or non-renewal of the underlying insurance immediately preceding this Policy, this Policy terminates as of the same date without notice to the Insured. The Company may, however, cancel this Policy absolutely on five (5) days' notice for non-payment of premium due. Notice shall be given by the Insured to the Company at One State Street Plaza, N.Y., N.Y. 10004 and by the Company to the Insured at the latter's address as shown in the Declarations. Notice by the Company to the first Named Insured, if more than one, shall be deemed notice to any other interests included as an Insured.

IN WITNESS WHEREOF the Midland Insurance Company has caused this Policy to be signed by its President and Secretary, but same shall not be binding upon the Company unless countersigned by an authorized representative of the Company.

Karl E. Wjef Secretary

James P. Berg President

ENDORSEMENT

A836084

OIL INDUSTRIES LIMITATION ENDORSEMENT

In consideration of the premium charged, it is agreed that this policy does not apply to:

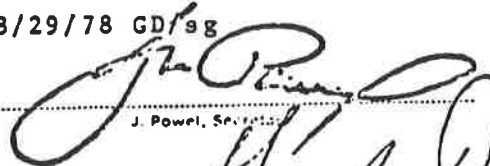

1. removal of, loss of or damage to sub-surface oil, gas or any other substance, the property of other; it being agreed that this exclusion shall not apply to any liability which would otherwise be covered under this policy for such removal, loss or damage directly attributable to blow-out, cratering or fire of an oil or gas well owned or operated by or under the control of the Insured.
2. loss of, damage to, or loss of use of property directly or indirectly resulting from subsidence caused by sub-surface operations of the Insured.
3. Personal Injury or Bodily Injury or loss of, damage to, or loss of use of property directly or indirectly caused by seepage, pollution or contamination; it being agreed that this exclusion shall not apply to liability for Personal Injury or Bodily Injury or loss of or physical damage to or destruction of tangible property, or loss of use of such property damaged or destroyed where such seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the policy period,
4. The cost of removing, nullifying or cleaning up seeping, polluting or contaminating substances unless the seepage, pollution or contamination is caused by a sudden, unintended and unexpected happening during the policy period,
5. to expenses incurred or to bodily injury, sickness, disease or death or injury to or destruction of property, including the loss of use thereof, resulting from the emission of gases, fumes, smoke, vapors or other air pollutants, provided this exclusion shall not apply with respect to expenses incurred or to bodily injury, sickness, disease or death or injury to or destruction of property, including loss of use thereof, resulting from a sudden or accidental or unexpected emission of gases, fumes, smoke, vapors or other pollutants, nor resulting from a sudden or accidental or unexpected occurrence arising out of the emission of gases, fumes, smoke, vapors or other air pollutants during the policy period,

Effective April 1, 1978 12:01 AM Standard Time this Endorsement No. 1 (page 1)
 attached to and made a part of Policy No. XL 148163 of MIDLAND INSURANCE COMPANY
 issued to U.V. Industries, Inc.

(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of this policy other than as above stated.

8/29/78 GD/sg


 J. Powell, Secretary
 By 
 Authorized Representative


 M.S. Cheneault, President

CORNELL 003449

ENDORSEMENT

A83685

6. loss of hole or in-hole equipment; or any expense incurred by the Insured in regaining control of any oil and/or gas well.
7. fines, penalties, punitive or exemplary damages as a result of.

It is further agreed that it is warranted by the Insured that all drilling contractors performing services or operations for or on behalf of the Insured shall be required to furnish the Insured with waivers of subrogation as respects their policies covering rigs and/or equipment.

Effective April 1, 1978 12:01 AM Standard Time, this Endorsement No. 1 (page 2)
 attached to and made a part of Policy No. XL 148163 of MIDLAND INSURANCE COMPANY
 issued to U.V. Industries, Inc.

(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of this policy other than as above stated.

8/29/78 GD/sg

By J. Powell, Secretary
[Signature]
 Authorized Representative

[Signature]
 M.S. Chensault, President

ENDORSEMENT

A836086

WORKMEN'S COMPENSATION EXCLUSION

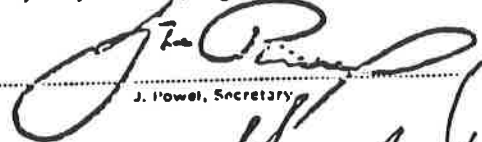
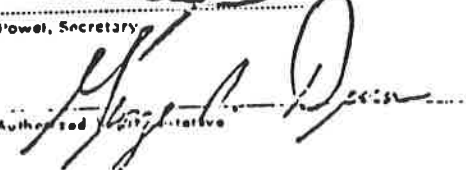
In consideration of the premium charged and notwithstanding anything contained herein to the contrary it is hereby agreed that this Policy shall not apply to any obligation for which the Insured or any carrier as his Insurer may be held liable under any Workmen's Compensation or disability benefits law, or under any similar law, as respects underground mining.

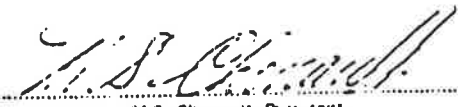
Effective April 1, 1978 - 12:01 AM Standard Time this Endorsement No. 2
 attached to and made a part of Policy No. XL 149163 of MIDLAND INSURANCE COMPANY
 issued to U.V. Industries, Inc.

(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of this policy other than as above stated.

8/29/78 GD/sg


 J. Powell, Secretary
 By 
 Authorized Representative


 M.S. Chennault, President

ENDORSEMENT

A836087

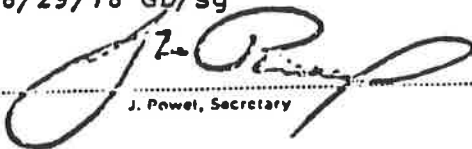
In consideration of the premium charged, it is agreed that the insurance afforded by this policy shall not apply to any Personal Injury or Property Damage Liability (including liability assumed under contract) arising out of the ownership, maintenance, use, loading or unloading of any railroad locomotive or rolling stock while away from any premises owned, rented to or controlled by any insured including the ways immediately adjoining such premises.

Effective April 1, 1978 12:01 AM Standard Time This Endorsement No. 3
 attached to and made a part of Policy No. XL 148163 of MIDLAND INSURANCE COMPANY
 issued to U.V. Industries, Inc.

(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of this policy other than as above stated.

8/29/78 GD/sg


 J. Powell, Secretary


 M.S. Chenault, President

By _____
 Authorized Representative

ENDORSEMENT

A836088

AIRCRAFT PRODUCTS LIABILITY & GROUNDING LIABILITY EXCLUSION

In consideration of the premium charged, and notwithstanding anything contained herein to the contrary it is hereby agreed that such insurance as is afforded by this policy for Product Liability, as defined in this policy, does not apply as respects Aircraft Products. Aircraft Products means Aircraft (including missiles, spacecraft and/or any ground support or control equipment used therewith) and/or any article furnished by the insured, installed in aircraft and/or spare parts for aircraft including ground handling tools and equipment and also means training aids, instructions, manuals, blue prints, engineering or other advice.

It is further agreed that such insurance as is afforded by this policy, shall not apply to any claim or claims arising from the withdrawal in the interest of safety, of one or more aircraft from flight operations, or the imposition of speed, passenger or load restrictions on such aircraft, by reason of the existence or alleged or suspected existence of a like defect, fault or condition therein of a part or parts of such aircraft sold, handled or distributed by the insured or manufactured, assembled or processed by any other person or organization according to specifications, plans, orders or drawings of the insured or with tools, machinery or other equipment furnished to such persons or organizations by the insured, whether such aircraft so withdrawn are owned or operated by the same or different person, firms or corporations.

Effective April 1, 1978 12:01 AM Standard Time, this Endorsement No. 4
attached to and made a part of Policy No. XL 148163 of MIDLAND INSURANCE COMPANY
issued to U.V. Industries Inc.
(The information above is required only when this endorsement is issued subsequent to preparation of the policy.)

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of this policy other than as above stated.

8/29/78 GD/sg

By


Authorized Representative

CORNELL 003453

ORIGINAL

EXHIBIT C



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1868

received
2-10-97

FEB 11 1997

URGENT LEGAL MATTER - PROMPT REPLY REQUESTED
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Cornell Dubilier Electronics, Inc.
c/o Foley, Hoag & Eliot LL.P.
1615 L. Street N.W., Suite 850
Washington, D.C. 20036

Re: Notice of Potential Liability
Cornell-Dubilier Electronic Site a/k/a Hamilton Industrial Park, South Plainfield, New Jersey.

Dear Sir/Madam:

Pursuant to authority contained in §-104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9604, in cooperation with the Department of Environmental Protection of the State of New Jersey, the United States Environmental Protection Agency ("EPA") determined that there was a release or substantial threat of a release of hazardous substances, as that term is defined in Section 101(14) of CERCLA, at the Cornell-Dubilier Electronic Site, South Plainfield, New Jersey ("the Site"). The Site is located at 333 Hamilton Boulevard in South Plainfield, Middlesex County, New Jersey. The Site occupies approximately 25 acres in an industrial, commercial and residential area. A map of the Site has been attached. (Attachment 1)

This letter notifies you of the potential liability of Cornell Dubilier Electronics, Inc. ("CDE") under Section 107(a) of CERCLA, for any response costs which EPA has incurred or which EPA may incur in the future for response actions taken pursuant to CERCLA relating to the Site. EPA has determined that certain response actions must be undertaken in the immediate future to protect the public health, welfare and the environment. This letter is also intended to inform CDE of the nature of those actions and to request that CDE indicate whether it is willing to fully finance and perform those actions instead of EPA.

Responsible parties under CERCLA include current and former owners or operators of the facility, persons who arranged for treatment and/or disposal of any hazardous substances found at the facility, and persons who accepted hazardous substances for transport and selected the site or facility to which the hazardous substances were delivered. EPA has evaluated evidence in connection with its investigation of the Site and believes that CDE is a potentially responsible party ("PRP") with respect to the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you to voluntarily perform or finance those response activities that EPA determines are necessary at the Site. Whether EPA funds the entire response action or simply incurs costs by overseeing the parties conducting the response activities, you are potentially liable for EPA's expenditures plus interest.

EPA has spent funds on response actions to investigate and control releases or threatened releases of hazardous substances at the Site. EPA also intends to spend additional funds for response actions at the Site unless EPA reaches an agreement under which one or more PRPs will fully finance and/or perform or finance such actions. The additional response actions which EPA has concluded must be undertaken in the immediate future include the following:

- 1) placing temporary cover or caps, in the form of soil and/or other material(s), over certain areas at the Site where PCBs and/or other hazardous substances exist at levels which, as determined by EPA, that pose an unacceptable threat to the public health, welfare or the environment;
- 2) installing fencing and signs and implementing other security measures to minimize (i) the potential for exposure of individuals to hazardous substances at certain areas at the Site and (ii) to minimize offsite contamination; and
- 3) funding and performing certain environmental studies, as determined by EPA, to implement above response actions.

If you are interested in performing these activities, we must receive a clear, unambiguous affirmative indication of that willingness in writing from CDE (alone or in conjunction with any other PRPs noted in the attached list) within fifteen (15) calendar days of the date of this letter. If EPA receives any of the following in response to this request, it may be construed by EPA as an indication that the PRPs are not interested in entering an agreement to perform the actions noted above and EPA shall feel free to take any funding and/or enforcement measures it deems appropriate: a) no response in writing by the date noted, b) a conditional response or a response which EPA determines is inadequate, c) inconsistent responses from two or more PRPs, d) any response which EPA determines does not indicate a good faith intention to enter negotiations or e) any indication that it is unlikely that an agreement can be reached with any of the PRPs to have one or more PRPs fund, perform and complete these activities within the immediate future.

EPA may perform the actions noted above unless one or more PRPs agrees to fully finance and perform them. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), responsible parties may be held liable for all costs incurred by the Government (including interest) in responding to any release or threatened release of hazardous substances at the facility. Such costs may include, but are not limited to, expenditures for investigation, planning, response, enforcement activities, oversight of response actions that are performed by parties other than EPA or its contractors, and operation and maintenance of monitoring systems.

We have enclosed a list of all the parties who have been sent a notice of potential liability under CERCLA for this Site by EPA. (Attachment 2) We recommend that you contact the other PRPs noted on the attached list and that a single entity, e.g., a liaison counsel, be assigned to act as a contact for EPA on this matter. This list represents preliminary findings of EPA as to those who may be PRPs for this Site. EPA expressly reserves the right to send additional notice letters when and if any additional PRPs are identified in the future. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the site. While your liability is joint and several, you and other parties may allocate among yourselves the costs to be paid to EPA.

You may receive an additional notice from EPA in the future. That notice may either inform you that EPA is using the CERCLA Section 122(e) special notice procedures to formally negotiate terms of

a consent order to conduct or finance site response activities, or it may inform you that EPA is not using such procedures pursuant to Section 122(e). If EPA does not use Section 122(e) special notice procedures, the notice would specify why the special notice procedures were not appropriate in this case.

The factual and legal matters contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

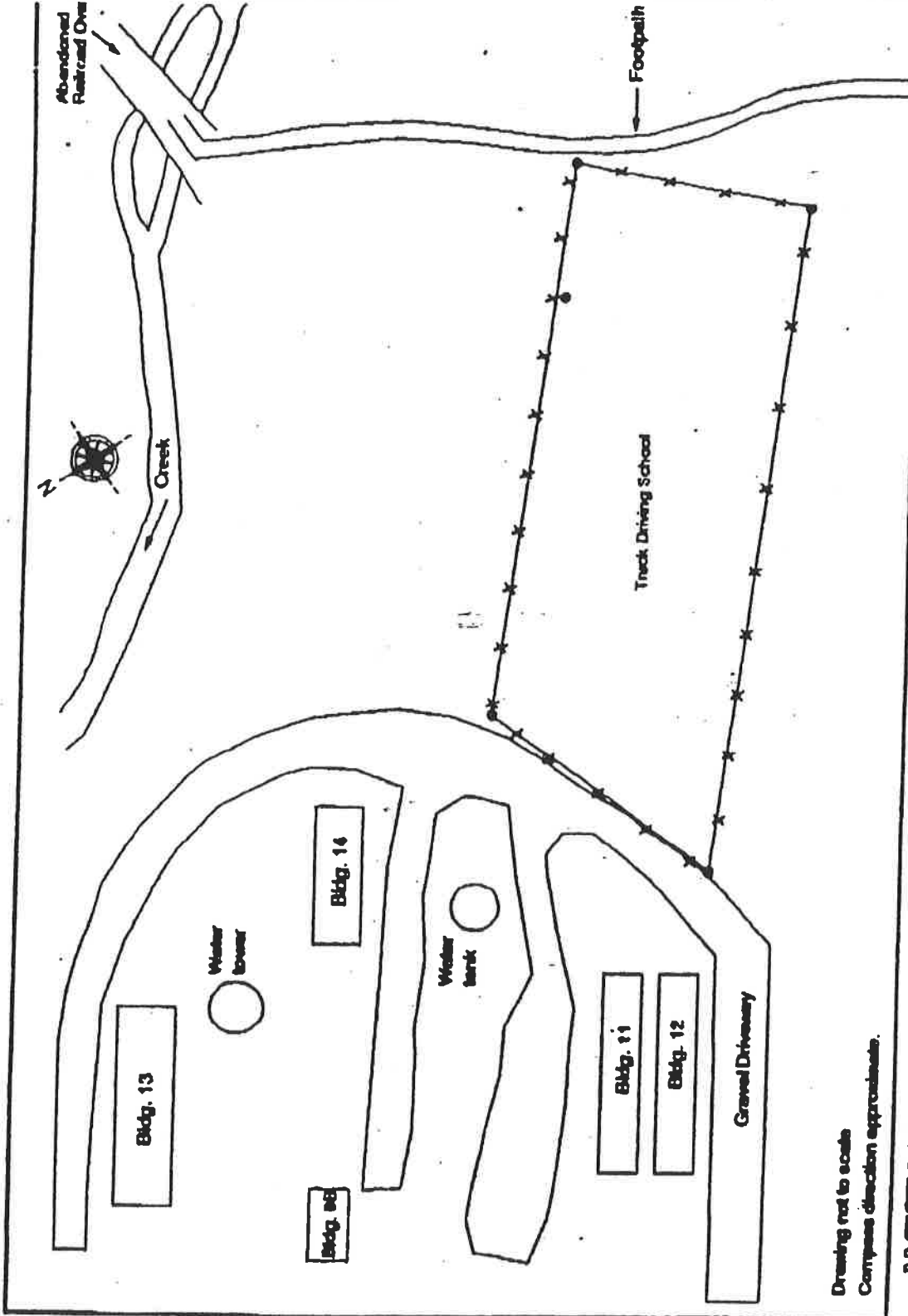
If you or your attorney have any questions pertaining to this matter, please contact the undersigned or the following in writing: Muthu S. Sundram, Esq., U.S. Environmental Protection Agency, 290 Broadway, New York, NY 10007 (Ph: 212-637-3148; Fax: 212-637-3096)

Sincerely,



Richard Caspe
Director, Emergency and Remedial Response Division

Attachments



Drawing not to scale
Compass direction approximate.

<p>WESTON</p>	<p>Roy F. Weston, Inc. FEDERAL PROGRAMS DIVISION</p>	<p>EPA # N. Magriples</p>	<p>Cornell-Dublier Electric South Plainfield, NJ</p>
<p>IN ASSOCIATION WITH RESOURCE APPLICATION INC. C.C. JOHNSON & ASSOCIATES, P.C., F.E. LAMPERT & ASSOCIATES PMC ENVIRONMENTAL MANAGEMENT, AND GRI ENVIRONMENTAL SERVICES, INC.</p>	<p>START PM</p>	<p>Figure 1: Site Map</p>	

Attachment 2

List of Parties Sent PRP Notice Letters

**Cornell Dubilier Electronics, Inc.
c/o Foley, Hoag & Eliot LL.P.
1615 L Street N.W., Suite 850
Washington, D.C. 20036
Ph: 202-775-0600**

**D.S.C. of Newark Enterprises, Inc.
70 Blanchard Street
Newark, NJ 07105
Ph: 201-589-4200**

EXHIBIT D

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: RUSSELL M. YANKWITT
PIERRE G. ARMAND
DANIEL P. FILOR
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2745
Facsimile: (212) 637-2730

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

----- x
In re

Dana Corporation, et al.,

Debtors
----- x

Chapter 11

07 Civ. 8160 (SAS)
06-10354 (BRL)

(Jointly Administered)

FILED
U.S. BANKRUPTCY COURT
2007 OCT 25 A 10:20
CLERK OF COURT

**UPDATED PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OF THE
DEPARTMENT OF COMMERCE, AND THE DEPARTMENT OF THE INTERIOR
ACTING THROUGH THE FISH AND WILDLIFE SERVICE**

1. This Updated Proof of Claim ("Updated Proof of Claim") is filed by the United States at the request of the United States Environmental Protection Agency ("EPA"), National Oceanic and Atmospheric Administration ("NOAA") of the Department of Commerce, and the Department of the Interior acting through the Fish and Wildlife Service ("FWS") (collectively, the "Government"). The Attorney General is authorized to submit this Updated Proof of Claim on behalf of the Government. This Updated Proof of Claim supplements and updates the Government's prior Proof of Claim, filed on September 21, 2006.

2. On September 21, 2006, the Government filed its Proof of Claim, numbered 13796 ("2006 Proof of Claim") in this matter. This Updated Proof of Claim updates the amounts of past costs and estimates of future costs, and reflects additional investigation and evaluation that has been conducted since the 2006 Proof of Claim was filed. This Updated Proof of Claim updates and supplements the Government's 2006 Proof of Claim with respect to the paragraphs enumerated below and supersedes such paragraphs to the extent inconsistent. All other provisions are unaffected.

I. Updated Information Regarding the Hastings Superfund Site

3. Based upon current information, the Government updates Paragraphs 32 and 33 of the 2006 Proof of Claim as follows:

32. In response to the actual and threatened releases of hazardous substances at the Hastings Facility, EPA has incurred, and will continue to incur, response costs that are not inconsistent with the National Contingency Plan, promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300. Through June 30, 2007, EPA has incurred \$1,208,168.10, in unreimbursed environmental response costs in connection with the Hastings Facility. In addition, through September 30, 2007, the Agency for Toxic Substances and Disease Registry has incurred \$222,839 in performing a health consultation at the Site. EPA expects substantial additional response activities to assess and address contamination fully from the release of hazardous substances at or in connection with the Hastings Site over the next 30 years. As a result of additional, more comprehensive information gathered since EPA filed its 2006 Proof of Claim, EPA conservatively estimates that the cost for such future environmental response activities least will be at least \$37,234,200, including a 20 percent contingency for future costs, to remediate the extensive contamination fully at or from the Facility. The specific cost estimates for certain future environmental response activities that EPA, or its contractors, will have to perform are as follows:

a. Projected Removal Action Costs: Because of the ongoing threat to human health and the environment posed by contamination at the Hastings Facility, EPA will be required to continue with existing removal activities consisting of, among other things, a groundwater pump-and-treat and soil

vapor extraction until approximately March 31, 2012. The cost estimate for performance of these future removal activities is at least \$784,500.

b. Projected Remedial Investigation/Feasibility Study Costs: The cost estimate to conduct the Hastings Facility site-wide, RI/FS is \$3,919,000, including the activities to be performed by EPA's RI/FS contractor for the Hastings Facility, pursuant to an EPA-approved Site Characterization Work Plan and related documents.

c. Projected Remedial Design Costs: Based upon conservative estimates, and consistent with the costs to design similar systems and EPA's work on similar superfund sites, the cost estimate to conduct the work regarding the design of the remedial systems that will be necessary to remediate the contamination is \$1,570,000.

d. Projected Remedial Action Capital Construction Costs: The cost estimate to perform the remedial system capital construction is \$5,020,000 based upon conservative estimates. These costs reflect the future costs for construction of the remedial systems, pursuant to the remedial action to be selected by EPA, as required under EPA's selected remedy to remediate the contamination. These costs also reflect system start-up from approximately April 2010 through June 2012. Aside from the actual construction costs, these costs also include mobilization/demobilization, safety, security, temporary facilities, site preparation, and surveying.

e. Remedial System Operation and Maintenance ("O&M"): Once the remedial system is in place and operational, EPA will continue to incur response costs associated with the O&M of the system. EPA presently estimates that the O&M costs will total \$19,735,000, based on a 30-year time frame for groundwater remediation, and 3-year time frame for soil source area remediation.

33. Because Dana was an owner and operator of the Hastings Facility at the time of disposal of hazardous substances, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2), (in addition to still retaining ownership of the building where the treatment systems are located), Dana is jointly and severally liable to the United States for all unreimbursed response costs incurred and to be incurred by the United States in connection with the Hastings Facility, plus prejudgment interest on such costs. The United States hereby asserts a claim against Dana for all unreimbursed past and future response costs (plus interest) for the Hastings Facility, which are currently estimated to be at least \$38,665,207.

II. Updated Information Regarding the CDE Superfund Site

4. Based upon current information, the Government updates Paragraph 38 of the 2006 Proof of Claim as follows:

38. EPA issued the Record of Decision ("ROD") for OU1 on September 30, 2003. The OU1 ROD calls for the excavation of soils contaminated with PCBs from certain residential and commercial properties, and the investigation of additional properties to determine which such properties will require remediation. After Dana declined to make an offer to reimburse EPA's past costs or perform the OU1 work, in August 2004, EPA issued a unilateral administrative order ("UAO") CERCLA-02-2004-2030 to Dana (and two other parties) to perform the OU1 remedial design and remedial action ("RD/RA"). The Debtor refused to perform the work required under the UAO. As discussed below (in the Section "Injunctive Obligations Under Environmental Statutes"), this Proof of Claim is filed in a protective manner with respect to Dana's obligation to perform work under the UAO. EPA estimates that it will cost \$5.629 million to perform the OU1 RD/RA, based on the following:

a. EPA has entered into Interagency Agreement ("IAG") with the Army Corps of Engineers ("Corps") for the OU1 RD. To date, pursuant to the IAG, EPA has obligated \$1.25 million for the RD for the first four properties being remediated as part of OU1 remedial activities, and for the investigation of the approximately 56 properties targeted by the ROD for additional sampling. The OU1 ROD states that EPA anticipates that the additional sampling of residential properties will identify 12 properties in need of remediation. Based on the known cost of performing the RD for the first four properties, EPA now estimates that the RD for this next group of 12 properties will cost at least \$1.25 million, for a total cost of \$2.5 million.

b. EPA has also entered into an IAG for the OU1 RA with the Corps. To date, pursuant to the IAG, EPA has obligated \$1 million for the RA for the first four properties being remediated as part of OU1. Based on the known cost of performing the RA for the first four properties, EPA estimates that the RA for the 12 additional properties will cost at least an additional \$1 million, for a total cost of \$2 million.

c. EPA estimates that its payroll costs for OU1 will be \$50,000.

d. The cost estimate for OU1 in the 2006 Proof of Claim was based on an estimate of \$2.5 million for the remedial design, and \$1 million for

the remedial action. The remedial action is likely to cost \$2 million (\$1 million more than previously estimated). With payroll costs of \$50,000, future costs for OU1 are now estimated at \$4.33 million, calculated as follows:

RD	\$2,320,000
RA	\$1,960,000
EPA Payroll	<u>\$50,000</u>
Total (direct costs)	\$4,330,000

e. Accordingly, total future direct costs for OU1 must be adjusted from \$3.5 million to an estimated \$4.33 million.

f. In addition to these direct costs, indirect costs are estimated at 30 percent of that amount, or \$1.299 million. Accordingly, the total estimated future costs for OU1 are \$5.629 million.

5. Based upon current information, the Government updates Paragraph 39 of the 2006 Proof of Claim as follows:

39. On September 30, 2004, EPA issued the ROD for OU2, which addresses contaminated soil and buildings at the former manufacturing property that is part of the CDE Facility. The remedy for OU2 calls for excavation of some contaminated soils and capping of the remainder and demolition of contaminated buildings. The most heavily contaminated soils either will be treated on-site using low temperature thermal desorption or disposed of off-site. Currently, EPA is performing the remedial design for OU2. The cost estimate for performance of the OU2 RD/RA is \$154.73 million, based on the following:

a. EPA has entered into an IAG with the Corps for the RD for the building demolition and soil cleanup. EPA has obligated \$3.5 million under this IAG, of which \$1.3 million has already been incurred and is documented as part of EPA's past costs for the CDE Facility, leaving \$2.2 million as future costs.

b. The \$2 million cost estimate for relocation of tenants at the CDE Facility, which the Government incorporated in its 2006 Proof of Claim, reflects costs actually incurred by EPA and an estimate from the Corps of the remaining costs that will be incurred.

c. The current estimate for building demolition, \$13.7 million, is the budget that EPA has negotiated with the prime contractor for demolition.

d. The OU2 ROD estimate for the cost of the OU2 RA included an estimate of \$62 million for soil remediation. EPA has developed more current estimates, which show that the soil remediation phase will likely cost \$85 million. This includes the cost of excavation of the debris in the capacitor disposal area, and the excavation for treatment and/or off-site disposal of contaminated soil consistent with the requirements of the selected remedy. As with all of EPA's estimates, this updated number remains subject to change when the 100% design report is completed and EPA is able to seek cost estimates from contractors.

e. EPA estimates that the Corps will charge EPA approximately \$8 million for oversight and management of the OU2 RD/RA. EPA future payroll costs for OU2 are estimated to be \$300,000.

f. EPA estimates that the O&M costs for maintenance of the multi-layer cap installed at the CDE Facility as part of the OU2 soil remedy will be \$7.82 million, based on a time frame of 30 years.

g. The cost estimate for OU2 in the 2006 Proof of Claim was based on an estimate of \$2.5 million for the remedial design and \$87 million for the remedial action. Future costs for OU2 are now estimated at \$119.02 million, as follows:

RD	\$2,200,000
Relocation of tenants	\$2,000,000
RA - building demo	\$13,700,000
RA - capacitor disposal/soils	\$85,000,000
OU2 O&M	\$7,820,000
Corps	\$8,000,000
EPA - future payroll	<u>\$300,000</u>
Total (direct costs)	\$119,020,000

h. Total future direct costs for OU2 therefore must be adjusted from \$89.5 million to an estimated \$119.02 million.

i. In addition, indirect costs are estimated at 30 percent of that amount, or \$35.706 million. Thus, the total estimated future costs for OU2 are \$154.73 million.

6. Based upon current information, the Government updates Paragraph 40 of the 2006 Proof of Claim as follows:

40. OU3 addresses contaminated groundwater and associated soil vapor at the CDE Facility. In July 2005, the Debtor entered into an administrative order on consent ("AOC"), CERCLA-02-2005-2024, to perform the remedial investigation/feasibility study ("RI/FS") for OU3. EPA was nearing completion of its review of the draft work plan prepared by the Debtor, when it was advised by the Debtor, by a letter dated May 1, 2006, that the Debtor would cease compliance with the AOC. As discussed below (in the Section "Injunctive Obligations Under Environmental Statutes"), this Proof of Claim is filed in a protective manner with respect to Dana's obligation to perform work. Since investigations at the CDE Facility are continuing and the OU3 remedy has not yet been selected, the cost of the OU3 work is uncertain at this time, but EPA currently estimates that remedial investigation and RD/RA work with respect to OU3 will cost approximately \$44.763 million, based on the following:

- a. EPA estimates that it will incur \$2.865 million for the OU3 RI/FS.
- b. EPA estimates that it will incur \$2.5 million for the OU3 RD.
- c. EPA expects that the preferred remedy for OU3 will include pumping and treatment of the contaminated groundwater pumped from the Site. EPA estimates that the capital costs for the OU3 remedy will be \$8 million.
- d. EPA has estimated that the Long Term Remedial Action/Operation and Maintenance ("LTRA/O&M") for the groundwater remediation system will be conducted over a 100-year period.
- e. EPA has estimated that the annual LTRA/O&M costs will be \$400,000 per year for 100 years, at a present value of \$12.64 million. These costs would include operating and maintaining the extraction wells and the treatment system, conducting the required sampling of monitoring wells and the influent/effluent from the treatment system, and completing all of the reporting requirements.
- f. EPA has determined that it is appropriate to add a contingency amount to the RA capital costs and the LTRA/O&M and has applied a standard 20% construction contingency, adding another \$4.128 million to the total estimated cost of OU3.
- g. In addition, EPA will incur an estimated \$4,000,000 for oversight and management of the RD/RA by the Corps, and \$300,000 for EPA payroll. EPA previously estimated that it would incur costs of \$25 million

for OU3, including the RI/FS, RD/RA and LTRA/O&M. Future costs for OU3 are now estimated at \$34,433,000, as follows:

OU3 RI/FS	\$2,865,000
OU3 RD	\$2,500,000
OU3 RA	\$8,000,000
OU3 O&M	\$12,640,000
20% contingency	\$4,128,000
Corps	\$4,000,000
EPA Payroll	<u>\$300,000</u>
Total (direct costs)	\$ 34,433,000

h. Total future direct costs for OU3 therefore must be adjusted from \$25,000,000 to an estimated \$34,433,000. Indirect costs are estimated at 30 percent of that amount, or \$10,329,900; for a total of \$44,762,900.

7. Based upon current information, the Government updates Paragraph 41 of the 2006 Proof of Claim as follows:

41. OU4 at the CDE Facility addresses the contaminated sediments in the Bound Brook corridor. Since investigations at the Facility are continuing and the final remedy has not yet been selected, the cost of the OU4 work is uncertain at this time, but EPA currently estimates that remedial investigation and RD/RA work with respect to OU4 will cost approximately \$108.22 million, based on the following.

- a. EPA estimates that it will incur approximately \$2.5 million to complete the OU4 RI/FS.
- b. EPA estimates that it will incur \$2.5 million for the OU4 RD.
- c. EPA estimates that the capital costs for the OU4 remedy will be \$57.4 million.
- d. EPA also expects to incur costs for Long Term Remedial Action/Operation and Maintenance ("LTRA/O&M") EPA estimates that the annual LTRA/O&M costs will be \$500,000 per year for 10 years, at a present value of \$4,265,000.
- e. EPA has determined that it is appropriate to add a contingency amount to the RA capital costs and LTRA/O&M costs and has applied a

standard 20% construction contingency, adding another \$12.333 million to the total estimated cost of OU4.

f. In addition, EPA will incur an estimated \$4,000,000 for oversight and management of the RD/RA by the Corps, and \$250,000 for EPA payroll. EPA previously estimated that it would incur costs of \$55 million for OU4, including the RI/FS, RD/RA and LTRA/O&M. Future costs for OU4 are now estimated at \$83,248,000, as follows:

OU4 RI/FS	\$2,500,000
OU4 RD	\$2,500,000
OU4 RA	\$57,400,000
OU4 O&M	\$4,265,000
20% contingency	\$12,333,000
Corps	\$4,000,000
EPA Payroll	<u>\$250,000</u>
Total (direct costs)	\$83,248,000

g. Total future direct costs for OU4 therefore must be adjusted from \$55,000,000 to an estimated \$83,248,000.

h. In addition, indirect costs are estimated at 30 percent of that amount, or \$24,974,400. Accordingly, the total estimate future costs for OU4 are \$108,222,400.

8. Based upon current information, the Government updates Paragraph 42 of the 2006 Proof of Claim as follows:

42. In response to the actual and threatened releases of hazardous substances at the CDE Facility, EPA has incurred, and will continue to incur, response costs that are not inconsistent with the National Contingency Plan, promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300. Past costs incurred by EPA and accounted for in EPA's accounting system, as documented in the Superfund Cost Recovery Package Imaging and On-Line System ("SCORPIOS") Report for the Site covering the time period through November 30, 2006, are \$8,621,543.

9. Based upon current information, the Government updates Paragraph 43 of the 2006 Proof of Claim as follows:

43. EPA expects substantial additional response activities will be necessary to fully assess and address contamination from the release of hazardous substances at or in connection with the CDE Facility. As noted above, EPA presently estimates that the future costs for performance of the OU1 RD/RA are \$5.629 million, and that the future costs for performance of the OU2 RD/RA are \$154.731 million. Investigations at the CDE Facility are continuing with respect to OU3 and OU4. Although the cost of the OU3 and OU4 work is uncertain at this time, EPA presently estimates that remedial investigation and RD/RA work with respect to OU3 and OU4 will cost approximately \$152.985 million. See Paragraphs 40 and 41, supra (\$44.763 million plus \$108.222 million).

10. In all respects other than as set forth above, the 2006 Proof of Claim remains in effect.

CONCLUSION

11. Accordingly, pursuant to its Updated Proof of Claim the Government is entitled to an allowed claim of at least \$360,631,050 for the Hastings and CDE Superfund Sites.

Respectfully submitted,

FOR THE UNITED STATES:

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United States Attorney for the
Southern District of New York

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EXHIBIT F

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Narrative Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

1. The United States Environmental Protection Agency has incurred at least \$1,841,194.11 for Regional Payroll Costs.
2. The United States Environmental Protection Agency has incurred at least \$97,175.88 for Headquarters Payroll Costs.
3. The United States Environmental Protection Agency has incurred at least \$7,516.82 for Regional Travel Costs.
4. The United States Environmental Protection Agency has incurred at least \$8,974.18 for Headquarters Travel Costs.
5. The United States Environmental Protection Agency has incurred costs of at least \$410,399.49 for ATSDR ALLOCATION TRANSFER contract expenditures. The total represents the amount spent under the AGENCY FOR TOXIC SUBSTANCES & DISEASE REG contract.
6. The United States Environmental Protection Agency has incurred costs of at least \$58,524.24 for EMERGENCY & RAPID RESP. SERVICES (ERS) CONTRACT contract expenditures. The total represents the amount spent under the ENVIRONMENTAL RESTORATION contract.
7. The United States Environmental Protection Agency has incurred costs of at least \$157,009.02 for EMERGENCY REMOVAL CLEANUP (ERC) CONTRACT contract expenditures. The total represents the amount spent under the EARTH TECH REMEDIATION SERVICES contract.
8. The United States Environmental Protection Agency has incurred costs of at least \$3,642.45 for EMERGENCY REMOVAL CLEANUP (ERC) CONTRACT contract expenditures. The total represents the amount spent under the OHM REMEDIATION SERVICES CORPORATION contract.
9. The United States Environmental Protection Agency has incurred costs of at least \$179,958.67 for EMERGENCY RESPONSE UNIT - 2 contract expenditures. The total represents the amount spent under the EARTH TECH REMEDIATION SERVICES contract.
10. The United States Environmental Protection Agency has incurred costs of at least \$193,688.20 for EMERGENCY RESPONSE UNIT - 2 contract expenditures. The total represents the amount spent under the EARTH TECH, INC. contract.
11. The United States Environmental Protection Agency has incurred costs of at least \$3,602.98 for ENFORCEMENT SUPPORT SERVICES (ESS) CONTRACT contract expenditures. The total represents the amount spent under the TRC ENVIRONMENTAL CORPORATION contract.
12. The United States Environmental Protection Agency has incurred costs of at least \$7,986.85 for ENFORCEMENT SUPPORT SERVICES (ESS-2) contract expenditures. The total represents the amount spent under the INDUSTRIAL ECONOMICS INC. contract.

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Narrative Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

13. The United States Environmental Protection Agency has incurred costs of at least \$9,186.79 for ENVIRONMENTAL MONITORING SYSTEMS LABORATORY (EMSL) contract expenditures. The total represents the amount spent under the LOCKHEED ENVIRON. SYSTEMS & TECHNOLOGIES contract.
14. The United States Environmental Protection Agency has incurred costs of at least \$46,430.28 for ENVIRONMENTAL MONITORING SYSTEMS LABORATORY (EMSL) contract expenditures. The total represents the amount spent under the LOCKHEED MARTIN contract.
15. The United States Environmental Protection Agency has incurred costs of at least \$65,827.35 for ENVIRONMENTAL SERVICES ASSISTANCE TEAMS (ESAT) contract expenditures. The total represents the amount spent under the LOCKHEED ENVIRONMENTAL SYSTEMS & TECH CO. contract.
16. The United States Environmental Protection Agency has incurred costs of at least \$15,553.95 for ENVIRONMENTAL SERVICES ASSISTANCE TEAMS (ESAT) contract expenditures. The total represents the amount spent under the LOCKHEED MARTIN SERVICES, INC. contract.
17. The United States Environmental Protection Agency has incurred costs of at least \$273,033.00 for ENVIRONMENTAL SERVICES ASSISTANCE TEAMS (ESAT) contract expenditures. The total represents the amount spent under the ALION SCIENCE AND TECHNOLOGY CORPORATION contract.
18. The United States Environmental Protection Agency has incurred costs of at least \$19,903.28 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the DEPARTMENT OF THE INTERIOR contract.
19. The United States Environmental Protection Agency has incurred costs of at least \$3,298.11 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
20. The United States Environmental Protection Agency has incurred costs of at least \$1,704,249.94 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
21. The United States Environmental Protection Agency has incurred costs of at least \$3,914,927.21 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
22. The United States Environmental Protection Agency has incurred costs of at least \$986,748.53 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.

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Narrative Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

23. The United States Environmental Protection Agency has incurred costs of at least \$16,429,848.43 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
24. The United States Environmental Protection Agency has incurred costs of at least \$1,348,223.62 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
25. The United States Environmental Protection Agency has incurred costs of at least \$5,945,278.25 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
26. The United States Environmental Protection Agency has incurred costs of at least \$4,886,566.07 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
27. The United States Environmental Protection Agency has incurred costs of at least \$57,969,420.16 for INTERAGENCY AGREEMENT (IAG) contract expenditures. The total represents the amount spent under the ARMY CORPS OF ENGINEERS contract.
28. The United States Environmental Protection Agency has incurred costs of at least \$4,054.35 for OTHER EXPENDITURES (OTH) contract expenditures. The total represents the amount spent under the INTEGRATED SUPPORT SYSTEMS, INC. contract.
29. The United States Environmental Protection Agency has incurred costs of at least \$19,169.94 for OTHER EXPENDITURES (OTH) contract expenditures. The total represents the amount spent under the GRB ENVIRONMENTAL SERVICES, INC. contract.
30. The United States Environmental Protection Agency has incurred costs of at least \$5,557.69 for OTHER EXPENDITURES (OTH) contract expenditures. The total represents the amount spent under the INFORMATION AND ENGINEER TECH. contract.
31. The United States Environmental Protection Agency has incurred costs of at least \$74,750.86 for OTHER EXPENDITURES (OTH) contract expenditures. The total represents the amount spent under the GRB ENVIRONMENTAL SERVICES, INC. contract.
32. The United States Environmental Protection Agency has incurred costs of at least \$2,733,044.49 for RESPONSE ACTION CONTRACT (RAC) contract expenditures. The total represents the amount spent under the FOSTER WHEELER ENVIRONMENTAL CORPORATION contract.
33. The United States Environmental Protection Agency has incurred costs of at least \$2,325.10 for RESPONSE, ENGINEERING, & ANALYTICAL CONTRACT (REA) contract expenditures. The total represents the amount spent under the ROY F. WESTON, INC. contract.

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Narrative Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

34. The United States Environmental Protection Agency has incurred costs of at least \$872,032.75 for RESPONSE, ENGINEERING, & ANALYTICAL CONTRACT (REA) contract expenditures. The total represents the amount spent under the LOCKHEED MARTIN TECHNOLOGY SERVICES contract.
35. The United States Environmental Protection Agency has incurred costs of at least \$880.00 for STATE COOPERATIVE AGREEMENT (SCA) contract expenditures. The total represents the amount spent under the NEW JERSEY DEPT OF ENVIRONMENTAL PROTECTION contract.
36. The United States Environmental Protection Agency has incurred costs of at least \$73,265.00 for STATE COOPERATIVE AGREEMENT (SCA) contract expenditures. The total represents the amount spent under the NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION contract.
37. The United States Environmental Protection Agency has incurred costs of at least \$32,840.00 for STATE COOPERATIVE AGREEMENT (SCA) contract expenditures. The total represents the amount spent under the NEW JERSEY DEPT. OF ENVIRONMENTAL PROTECTION contract.
38. The United States Environmental Protection Agency has incurred costs of at least \$46,609.31 for SUPERFUND TECH ASSESSMENT AND RESPONSE TEAM contract expenditures. The total represents the amount spent under the ROY F WESTON, INC. contract.
39. The United States Environmental Protection Agency has incurred costs of at least \$605,088.91 for SUPERFUND TECH ASSESSMENT AND RESPONSE TEAM contract expenditures. The total represents the amount spent under the ROY F. WESTON, INC. contract.
40. The United States Environmental Protection Agency has incurred costs of at least \$267,253.82 for SUPERFUND TECH ASSESSMENT AND RESPONSE TEAM - 3 contract expenditures. The total represents the amount spent under the WESTON SOLUTIONS contract.
41. The United States Environmental Protection Agency has incurred costs of at least \$1,799,870.27 for Contract Lab Program (CLP) contract expenditures.
42. The United States Environmental Protection Agency has incurred costs of at least \$76,368.88 for Miscellaneous Expenses.
43. The United States Environmental Protection Agency has incurred at least \$30,471,298.31 for Indirect Costs.

Total Site Costs:

\$133,672,577.54

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Itemized Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

REGIONAL PAYROLL COSTS	\$1,841,194.11
HEADQUARTERS PAYROLL COSTS	\$97,175.88
REGIONAL TRAVEL COSTS	\$7,516.82
HEADQUARTERS TRAVEL COSTS	\$8,974.18
ATSDR ALLOCATION TRANSFER	
AGENCY FOR TOXIC SUBSTANCES & DISEASE REG (ATSDR)	\$410,399.49
EMERGENCY & RAPID RESP. SERVICES (ERS) CONTRACT	
ENVIRONMENTAL RESTORATION (EPS21003)	\$58,524.24
EMERGENCY REMOVAL CLEANUP (ERC) CONTRACT	
EARTH TECH REMEDIATION SERVICES (68-S2-9908)	\$157,009.02
OHM REMEDIATION SERVICES CORPORATION (68-S3-2001)	\$3,642.45
EMERGENCY RESPONSE UNIT - 2	
EARTH TECH REMEDIATION SERVICES (68-S6-2101)	\$179,958.67
EARTH TECH, INC. (EPW04055)	\$193,688.20
ENFORCEMENT SUPPORT SERVICES (ESS) CONTRACT	
TRC ENVIRONMENTAL CORPORATION (68-W4-0020)	\$3,602.98
ENFORCEMENT SUPPORT SERVICES (ESS-2)	
INDUSTRIAL ECONOMICS INC. (EPW06092)	\$7,986.85
ENVIRONMENTAL MONITORING SYSTEMS LABORATORY (EMSL)	
LOCKHEED ENVIRON. SYSTEMS & TECHNOLOGIES (68-C5-0065)	\$9,186.79
LOCKHEED MARTIN (EPD05088)	\$46,430.28
ENVIRONMENTAL SERVICES ASSISTANCE TEAMS (ESAT)	
LOCKHEED ENVIRONMENTAL SYSTEMS & TECH CO. (68-D6-0002)	\$65,827.35
LOCKHEED MARTIN SERVICES, INC. (68-W0-1016)	\$15,553.95

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Itemized Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

ALION SCIENCE AND TECHNOLOGY CORPORATION (EPW07083)	\$273,033.00
INTERAGENCY AGREEMENT (IAG)	
DEPARTMENT OF THE INTERIOR (DW14941586)	\$19,903.28
ARMY CORPS OF ENGINEERS (DW96941744)	\$3,298.11
ARMY CORPS OF ENGINEERS (DW96942030)	\$1,704,249.94
ARMY CORPS OF ENGINEERS (DW96942036)	\$3,914,927.21
ARMY CORPS OF ENGINEERS (DW96942063)	\$986,748.53
ARMY CORPS OF ENGINEERS (DW96942098)	\$16,429,848.43
ARMY CORPS OF ENGINEERS (DW96942129)	\$1,348,223.62
ARMY CORPS OF ENGINEERS (DW96942131)	\$5,945,278.25
ARMY CORPS OF ENGINEERS (DW96942135)	\$4,886,566.07
ARMY CORPS OF ENGINEERS (DW96942166)	\$57,969,420.16
OTHER EXPENDITURES (OTH)	
INTEGRATED SUPPORT SYSTEMS, INC. (68-R2-9904)	\$4,054.35
GRB ENVIRONMENTAL SERVICES, INC. (68-S2-0117)	\$19,169.94
INFORMATION AND ENGINEER TECH. (68-W9-8106)	\$5,557.69
GRB ENVIRONMENTAL SERVICES, INC. (EPR20601)	\$74,750.86
RESPONSE ACTION CONTRACT (RAC)	
FOSTER WHEELER ENVIRONMENTAL CORPORATION (68-W9-8214)	\$2,733,044.49
RESPONSE, ENGINEERING, & ANALYTICAL CONTRACT (REA)	
ROY F. WESTON, INC. (68-C4-0022)	\$2,325.10
LOCKHEED MARTIN TECHNOLOGY SERVICES (EPC04032)	\$872,032.75
STATE COOPERATIVE AGREEMENT (SCA)	
NEW JERSEY DEPT OF ENVIRONMENTAL PROTECTION (99290998)	\$880.00
NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION (99291098)	\$73,265.00
NEW JERSEY DEPT. OF ENVIRONMENTAL PROTECTION (V97250707)	\$32,840.00
SUPERFUND TECH ASSESSMENT AND RESPONSE TEAM	

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Itemized Cost Summary

CORNELL-DUBILIER ELECTRONICS, INC., SOUTH PLAINFIELD, NJ SITE ID = 02 GZ

COSTS THROUGH 09/30/2011 (PP27 FY11)

ROY F WESTON, INC. (68-W0-0113)	\$46,609.31
ROY F. WESTON, INC. (68-W5-0019)	\$605,088.91
SUPERFUND TECH ASSESSMENT AND RESPONSE TEAM - 3	
WESTON SOLUTIONS (EPW06072)	\$267,253.82
CONTRACT LAB PROGRAM (CLP) COSTS	
FINANCIAL COST SUMMARY	\$1,799,870.27
MISCELLANEOUS COSTS (MIS)	\$76,368.88
EPA INDIRECT COSTS	\$30,471,298.31
Total Site Costs:	\$133,672,577.54

EXHIBIT E

TRAUB EGLIN LIEBERMAN STRAU
100 METROPLEX DRIVE
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EDISON NEW JERSEY 08817
(732) 985-1000
&
7 SKYLINE DRIVE
HAWTHORNE NEW YORK 10532
(914) 347-2600

A True Copy
Jude Del Preore
JUDE DEL PREORE
Deputy Clerk of Superior Court

CLERK OF SUPERIOR COURT
MERCER COUNTY

MAR 04 2004

JUDE DEL PREORE
DEPUTY CLERK OF SUPERIOR COURT

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

HOME INSURANCE COMPANY,

Plaintif,

v.

CORNELL-DUBILIER ELECTRONICS,
INC., et al.,

De fendants.

CIVIL ACTION Nos. MER-L-5192-96
MER-L-2773-02

CORNELL-DUBILIER ELECTRONICS,
INC., et al.,

Plaintiffs,

v.

UNITED INSURANCE COMPANY,

Defendant.

ORDER GRANTING PARTIAL
JUDGMENT IN FAVOR OF THE
POLICYHOLDERS ON THE ISSUE OF
INSURANCE COVERAGE FOR THE
SOUTH PLAINFIELD SITE, *Following*
THE TRIAL UP CERTAIN COVERAGE
ISSUES FOR THAT SITE

THIS MATTER HAVING BEEN BROUGHT BEFORE THE Court on February 18,
2004, for trial on the issue of insurance coverage for the South Plainfield, New Jersey site (the
"South Plainfield Site") in the above-captioned consolidated actions; with Robert S. Sanoff and
Jonathan M. Ettinger of Foley Hoag LLP appearing for Cornell-Dubilier Electronics, Inc.

("CDE"), and Howard T. Weir and Meredith B. Trzcinski of Morgan, Lewis & Bockius LLP appearing for Federal Pacific Electric Company ("FPE") (collectively "the Policyholders"), Mary Ann D'Amato and George L. Maniatis of Mendes & Mount, LLP appearing for the London Market Insurers ("LMI") and North River Insurance Company ("North River"), and Sean K. Smith of Traub Eglin Lieberman Straus LLP appearing for United Insurance Company ("United") (collectively "the Insurers"); and the Court having considered all of the proofs adduced at trial and all of the papers filed on behalf of the parties and the oral arguments of counsel and for the reasons stated on the record by the Court at the conclusion of trial on

February 23, 2004; *and the Court having considered the competing forms of Order presented:*

IT IS on this 4th DAY OF March, 2004 ORDERED as follows:

1. Judgment is entered in favor of the Policyholders on the issue of insurance coverage for the South Plainfield Site only as follows:

a. The Court finds that the Policyholders have established that there ~~were one or~~ ^{were one or} *more* "occurrences" ~~"occurrence"~~ concerning the South Plainfield Site under the insurance policies issued by LMI, North River and United listed on Attachment A to this Order (the "Policies");

b. With respect to the South Plainfield site only, the Court finds that the Insurers failed to meet their burden of showing that the Policyholders expected or intended harm;

c. The Court finds that the Insurers failed to meet their burden of showing that coverage is barred by the pollution exclusion clauses in those of the Policies which contain such clauses.

d. The Court finds that the property damage at the South Plainfield site commenced in 1939 and continued to the 1990s. *The legal significance of this finding, if any, is reserved to the allocation phase.* (JMS)

2. The following issues were not reached during this trial and shall be addressed in a future proceeding upon the Court's determination that the issues are ripe for resolution:

a. The quantum of damages incurred by the Policyholders in connection with the South Plainfield Site;

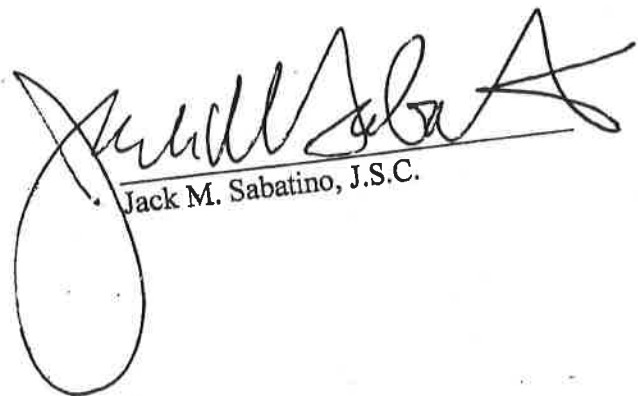
b. The applicability of the "owned property" exclusion to the Policyholders' claims for coverage with respect to the South Plainfield Site, ^{Open Unit 2 of} *and*

c. Any late notice defense asserted by United;

d. The Policyholders' claims of bad faith against the Insurers in connection with the South Plainfield Site;

e. Any issues related to allocation of costs ^{for of coverage} with respect to the South Plainfield site. *and*

3. Counsel shall serve a copy of this Order upon all counsel of record within seven (7) days of the date hereof.


Jack M. Sabatino, J.S.C.

The party receiving this Order from the Court shall serve all other parties with a copy of the Order within seven (7) days of the date hereof.

Attachment A

Insurance Policies at Issue for Purposes of the Trial of the South Plainfield Site

I. Policies Issues by London Market Insurers

Exh. No.	Policy Description
1	Lloyds Insurance Policy No. CK4294 Coverage Period: 5/21/59-7/1/62
1A	Lloyds Insurance Policy No. CK4295 Coverage Period: 5/21/59-7/1/62
2	Lloyds Insurance Policy No. K56745. Coverage Period: 5/21/59-7/1/62
2A	Lloyds Insurance Policy No. K56746. Coverage Period: 5/21/59-7/1/62
2B	Lloyds Insurance Policy No. K56747. Coverage Period: 5/21/59-7/1/62
25	Lloyds Underwriters Policy No. 614/NC5606. Coverage Period: 3/29/79-7/1/79
26	Lloyds Underwriters Policy No. 614/NC5607. Coverage Period: 3/29/79-7/1/79
27	Lloyds Underwriters Policy No. 614/NC5608. Coverage Period: 3/29/79-7/1/79
29	Lloyds Underwriters Policy No. 614-NC 7762. Coverage Period: 7/1/79-7/1/80
30	Lloyds Underwriters Policy No. 64/NC 7760. Coverage Period: 7/1/79-7/1/80
31	Lloyds Underwriters Policy No. 64/NC 7761. Coverage Period: 7/1/79-7/1/80

II. Policy Issued by North River Insurance Company

Exh. No.	Policy Description
14	North River Insurance Policy No. JU 0313. Coverage Period: 4/1/77-4/1/78

III. Policy Issued by Wrenford Insurance Co. and Assumed by United Insurance Company

Exh. No.	Policy Description
28	Wrenford Insurance Policy No. B49027. Coverage Period: 3/29/79-7/1/79

EXHIBIT G



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

SEP 23 2002

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

Texas Eastern Terminal Corporation
P.O. Box 1642
5400 Westheimer Court
Houston, Texas 77056

Texas Eastern Transmission Company
P.O. Box 1642
5400 Westheimer Court
Houston, Texas 77056

Duke Energy Corporation
5400 Westheimer Court
P.O. Box 1642
Houston, Texas 77056

Cornell-Dubilier Electronics
140 Technology Place
Liberty, South Carolina 29657

Re: General Notice Letter and Notice of Negotiations for
Removal Action and Remedial Investigation/Feasibility Study;
Woodbrook Road Dump Superfund Site ("Site")
Town of South Plainfield
Middlesex County, New Jersey

Dear Sir and Madam:

The U.S. Environmental Protection Agency ("EPA") has documented the release of hazardous substances into the environment at the Woodbrook Road Dump Superfund Site (the "Site"), located in the Town of South Plainfield, Middlesex County, New Jersey. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq., and in response to these releases and the threat of future such releases, EPA has spent public funds and anticipates spending additional public funds.

NOTICE OF POTENTIAL LIABILITY

Under CERCLA and other laws, responsible parties may be held liable for any costs incurred by the government in taking response actions at the Site. The costs may include, but need not be limited to, expenditures for investigation, planning, cleanup of the Site, and enforcement actions. Responsible parties may also be subject to orders requiring them to take

response actions themselves. Based on available information, EPA believes that you and/or your company may be a potentially responsible party ("PRP") with respect to this Site. Responsible parties under CERCLA may include, among others, the current and past owners and/or operators of a facility from which there has been a release or threatened release of hazardous substances, as well as persons who transported or arranged for the transport for disposal or treatment of hazardous substances at such a facility. Accordingly, you are hereby notified that you are considered to be a PRP with respect to the Site, and may be liable pursuant to Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a).

REQUEST TO PERFORM REMOVAL ACTION

In accordance with CERCLA, EPA has already undertaken certain actions and incurred costs in response to conditions at the Site. These response actions are designed to reduce the potential for exposure to contaminants on-site and limit the movement of contaminants off-site. EPA has performed sampling of the soil, sediment, and ground water at the Site. On March 8 and 9, 2000, EPA performed oversight of capacitor removal by the current property owner, Texas Eastern Terminal Corporation. Temporary fencing and warning signs were also installed surrounding the capacitor disposal area by Texas Eastern Terminal Corporation to restrict public access to PCB-contaminated soil. EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws. As you may be aware, the Site was proposed for listing on the National Priorities List on September 13, 2001.

At present, EPA is planning to implement a removal action to secure the Site to prevent human contact with hazardous or toxic substances. The site security measures would include the installation and maintenance of fencing and/or implementation of alternate method(s) to prevent direct contact with contaminated soils.

REQUEST TO PERFORM REMEDIAL INVESTIGATION/FEASIBILITY STUDY ("RI/FS")

In addition, EPA is planning to conduct the following studies at the Site:

1. A Remedial Investigation (RI) to identify the nature and extent of the release and threatened release. The goals of this investigation may include:
 - a) identification of local hydrogeological characteristics to evaluate ground water quality and movement in the vicinity of the Site;
 - b) determination of the extent of soil, air, building interiors, sediment, and surface water contamination at the Site.

2. A Feasibility Study (FS) to evaluate possible remedial actions to remove or contain hazardous substances at the Site.

In addition to the above studies, corrective measures may be necessary to protect health, welfare or the environment. These corrective measures may include, but are not limited to:

1. Implementation of initial remedial measures or additional removal actions, e.g., removal of contaminated material;
2. Design and implementation of the EPA-approved remedial action for addressing any ground water, surface water, soil and air contamination.
3. Any monitoring and maintenance necessary after remedial measures have been completed.

By this letter, EPA wishes to determine whether you will voluntarily finance or perform the removal action and the RI/FS for the Site. If you wish to finance or perform the removal action and the RI/FS, you must submit a written "good faith proposal" to EPA within 30 days of the date of your receipt of this letter.

In order for your proposal to be considered a good faith proposal, it must include the following elements:

1. A statement of the PRP(s)' willingness to conduct or finance the EPA approved removal action;
2. A statement of the PRP(s)' willingness to conduct or finance the EPA approved RI/FS, including reimbursement of costs incurred by EPA associated with oversight of the RI/FS;
3. The PRP(s)' comments, if any, on EPA's draft administrative order on consent (enclosed);
4. A demonstration of the PRP(s)' technical capability to carry out the removal action and the RI/FS, including the identification of the firm(s) that may actually conduct the work or a description of the process the PRPs will use to select the firm(s);
5. A demonstration of the PRP(s)' ability to finance the necessary response actions;
6. A statement of willingness by the PRP(s) to reimburse EPA for costs incurred in overseeing the PRP(s)' conduct of the removal action and the RI/FS; and

7. The name, address, and phone number of the individual(s) who will represent the PRP(s) in negotiations.

If EPA determines that a good faith proposal has been submitted within the thirty day period, then negotiations will be held for an additional period of up to sixty (60) days to finalize the agreement in an administrative order on consent. However, should EPA determine that a good faith proposal has not been submitted within thirty (30) days, EPA may thereafter initiate a federally-funded removal action and RI/FS at the Site, the costs of which the PRP(s) may be held liable for under CERCLA. EPA also may take action under Section 106(a) of CERCLA to require you to carry out the necessary removal action and RI/FS.

Any agreement by the PRPs to conduct the removal action and RI/FS must be memorialized in an administrative order on consent under CERCLA. A draft of the consent order is enclosed herewith. Please note that many of the provisions of the consent order are nationally consistent boiler-plate provisions that the United States does not have the discretion to alter under its current policies. Please note further that EPA intends to negotiate one administrative order on consent with all PRPs who have submitted a good faith offer.

You will note that the attached administrative order on consent includes provisions regarding the payment of EPA's past costs at the Site. EPA has incurred at least \$713,412.29 in past costs as of July 3, 2002 and continues to incur costs. The costs incurred by EPA with respect to the Site are charged to the Hazardous Substance Superfund, established pursuant to 26 U.S.C. § 9507 and administered by EPA. As PRPs, you are potentially jointly and severally liable for EPA's costs, plus interest. Demand is hereby made for payment of EPA's costs.

Your response to this notice letter should be sent to:

Mr. William C. Tucker, Esq.
Assistant Regional Counsel
Office of Regional Counsel
New Jersey Superfund Branch
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, NY 10007-1866

with a copy to:

Mr. Peter Mannino
Remedial Project Manager
New Jersey Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, NY 10007-1866

This notice is not being given under the special notice procedures of Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), as EPA does not believe that those procedures would facilitate an agreement or expedite remedial investigation at the Site.

Please contact Mr. Tucker at (212) 637-3139 if you wish to discuss these matters in further detail or if you have any questions regarding this letter.

We appreciate your immediate attention to this matter.

Sincerely yours,



George Pavlou, Director
Emergency and Remedial Response Division

Enclosures

cc: Lisa Rosman, NOAA
Sandra Brewer, U.S. Department
of Interior
Barbara Dietz, New Jersey Department
of Environmental Protection

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

-----X
IN THE MATTER OF
THE WOODBROOK ROAD DUMP SITE

Cornell-Dubilier Electronics, Inc.
Texas Eastern Terminal Corporation
Texas Eastern Transmission Company
Duke Energy Corporation

Index No. II CERCLA-

Respondents

Proceeding under Sections 104 and
122 of the Comprehensive Environ-
mental Response, Compensation and
Liability Act, as amended, 42 U.S.C.
§§ 9604, 9622.
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ADMINISTRATIVE ORDER ON CONSENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY STUDY

I. INTRODUCTION

This Administrative Order on Consent ("Consent Order" or "Order") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the above-captioned Respondents (hereinafter, "Respondents"). The Consent Order provides for the performance of a removal action, and the preparation and performance of a remedial investigation and feasibility study (hereinafter, the "the RI/FS") concerning the Woodbrook Road Dump Site (hereinafter, the "Site") in the Town of South Plainfield, Middlesex County, New Jersey. This Consent Order also concerns reimbursement by Respondents to EPA for certain costs which have been and will be incurred by EPA in connection with the Site.

II. JURISDICTION

1. This Consent Order is issued to Respondents pursuant to the authority vested in the President of the United States under Sections 104(a) and (b), 122(a) and (d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9604(a) and (b), 9622(a) and (d)(3), which authority was delegated to the Administrator of EPA on January 23, 1987 by Executive Order 12580, 52 Fed. Reg. 2926 (1987), and further delegated to the Regional Administrators of EPA on September 13, 1987, by EPA Delegation 14-14-C.

2. Respondents agree to undertake all actions required by the terms and conditions of this Consent Order. Respondents consent to and agree not to contest the authority or jurisdiction of the Regional Administrator of EPA Region II to issue or enforce this Consent Order, and also agree not to contest the validity or terms of this Consent Order in any action to enforce its provisions.

III. PARTIES BOUND

3. This Consent Order shall apply to and be binding upon the Respondents and their successors and assigns. Respondents agree to instruct their officers, directors, employees and agents involved in the performance of the work required under this Order to cooperate in carrying out the obligations of Respondents under this Order. Respondents agree that their officers, directors, employees and agents involved in the performance of the work required by this Order shall take all necessary steps to accomplish the performance of said work in accordance with this Order. Respondents are jointly and severally responsible for carrying out all actions required of them by this Consent Order. The signatories to this Consent Order certify that they are

authorized to execute and legally bind Respondents to this Consent Order. No change in the ownership or corporate status of Respondents or of their facilities or the Site shall alter Respondents' responsibilities under this Consent Order.

4. Respondents shall provide a copy of this Consent Order to any subsequent owners or successors before ownership rights or stock or assets in a corporation are transferred. Respondents shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Consent Order, within fourteen (14) days after the effective date of this Consent Order or the date of retaining their services, whichever is later. Respondents shall condition any such contracts upon satisfactory compliance with this Consent Order. Notwithstanding the terms of any contract, Respondents are responsible for compliance with this Consent Order and for ensuring that their employees, contractors, consultants, subcontractors and agents comply with this Consent Order.

IV. STATEMENT OF PURPOSE

5. In entering into this Consent Order, the objectives of EPA and the Respondents are: (a) to limit the existing public health hazards and environmental impacts of the Site, if any, by promptly taking actions to restrict access to the Site by the public; (b) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by any release or threatened release of hazardous substances, pollutants, or contaminants in connection with the Site, by conducting a remedial investigation; (c) to determine and evaluate, through the conduct of a feasibility study ("FS"), alternatives for the remediation or control of any release or threatened release of hazardous substances, pollutants or contaminants, in connection with the Site; and (d) to provide for the reimbursement to EPA of certain response costs which have been and will be incurred by EPA with respect to the Site.

6. The activities conducted under this Consent Order are subject to approval by EPA and shall provide all appropriate necessary information for the RI/FS for a record of decision that is consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300. The activities conducted by or on behalf of Respondents under this Consent Order shall be conducted in compliance with all applicable EPA guidance, policies, and procedures and any amendments thereto.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. The Site is located on two properties north of Woodbrook Road currently identified on South Plainfield tax maps as Block 388, Lots 1 and 26, Middlesex County, New Jersey.

8. The Site is an inactive, unauthorized dumping area. The properties are heavily wooded and undeveloped, total almost 70 acres, and are bordered by the Bound Brook and wetlands of the Dismal Swamp.

9. The properties were operated as dumps by previous owners during the 1940s and 1950s, accepting household and industrial wastes until shut down by the State of New Jersey in 1958.

10. Both parcels are currently owned by Texas Eastern Terminal Company, a subsidiary of Duke Energy Corporation.

11. Partially buried capacitors, some of which contained an oily liquid that had discharged onto the ground, were discovered at the Site in September 1999. During a site visit, New Jersey Department of Environmental Protection (NJDEP) observed the name "Cornell Dubilier" on small phenolic ballast containers at the Site.

12. Cornell-Dubilier Electronics, Inc. manufactured capacitors using polychlorinated biphenyls (PCBs) from 1936 to 1962 at their South Plainfield facility, a Superfund Site, located at 333 Hamilton Boulevard, approximately 0.75 mile from the Woodbrook Road Dump Site.

13. On July 7, 2000, EPA notified Texas Eastern Transmission Corporation and Cornell-Dubilier Electronics, Inc. of their potential liability for the Site. Texas Eastern Terminal Company is the current property owner. After notifying Texas Eastern Transmission Corporation and Cornell-Dubilier Electronics, Inc. on July 7, 2000, EPA identified an additional potentially responsible party (PRP) for the Site, including the Respondents identified below:

a: Texas Eastern Terminal Company's stock is owned 100% by Texas Eastern Transmission Corporation;

b: Duke Energy Corporation is the parent company of Texas Eastern Terminal Company and Texas Eastern Transmission Corporation;

14. On September 13, 1999, representatives of the New Jersey Department of Environmental Protection (NJDEP) conducted a site inspection and sampled the material inside one capacitor, and recorded greater than 50 parts per million (ppm) of PCBs with a

field screening kit. NJDEP referred the Site to EPA for CERCLA removal action consideration in October, 1999.

15. The Site was proposed for listing on the National Priorities List (NPL) on September 13, 2001. The NPL, codified at 40 CFR Part 300, Appendix B, has been promulgated pursuant to Section 105(8)(b) of CERCLA, 42 U.S.C. §9605(a)(8)(B).

16. The results of EPA's sampling and analyses indicate elevated concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds, PCBs and inorganic constituents in the site soils, sediments, and ground water.

17. Sampling at the Site includes the following:

- a. On October 13, 1999, the U.S. EPA collected soil, sediment, and sludge samples in and near capacitors, located approximately 10 feet from a wetland area at the Site. The following is a brief summary of the analytical data for those samples:
 - i. The sludge sample and its duplicate collected from inside a capacitor showed estimated concentrations of 6,200,000,000 and 7,100,000,000 micrograms per kilogram (ug/kg) of PCBs.
 - ii. Soil samples collected from outside the capacitors had PCB levels ranging from 7,600 ug/kg to an estimated 1,200,000,000 ug/kg.
 - iii. Metals analysis was performed for one soil sample and its duplicate, showing 849 and 1,150 milligrams per kilogram mg/kg) of lead and smaller amounts of other heavy metals, including mercury, selenium, and thallium.
- b. On March 30, 2000, the U.S. EPA collected composite soil samples along the path leading to the capacitor dumping area at the Site. The following is a brief summary of the analytical data for the above soil samples:

 - i. PCBs were detected at 30,000 and 22,00 ug/kg in the sample collected closest to the dumping area and its duplicate, and in the other samples at less than 1,000 ug/kg.
- c. On April 20, 2000, the U.S. EPA collected additional soil samples at the site. Composite samples were collected from sections of Woodbrook Road, and grab and composite samples were collected from a second dumping

area at the site where at least three capacitor parts were observed. The following is a brief summary of the analytical data for the above soil samples:

- i. PCBs were detected in the second dumping area samples at concentrations ranging from 1,400,000 to 9,300,000 ug/kg.
 - ii. PCBs were detected at concentrations at less than 100 ug/kg in the Woodbrook Road samples.
- d. On July 5, 6, 7, and 11, 2000, EPA conducted an Integrated Assessment (IA) and collected surface water, sediment, drinking water well, and background soil sampling. From July 17 through August 1, 2000, EPA collected additional IA sampling that consisted of surface soil samples, test pit soil samples, and Geoprobe ground water samples. The following is a brief summary of the samples collected during the IA:
- i. PCBs were detected in on-site soils at concentrations as high as 19,000,000 ug/kg, whereas the highest concentration of PCBs detected in a background sample was an estimated 63 ug/kg.
 - ii. Lead was detected at concentrations as high as 30,400 mg/kg in on-site soils, and the highest background lead concentration was an estimated 213 mg/kg.
 - iii. Other hazardous substances detected in on-site soils at concentrations significantly above background and above generic ingestion and inhalation Soil Screening Levels include: bis(2-ethylhexyl)phthalate, benzo(a)anthracene, benzo(f)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, antimony, arsenic, barium, cadmium, chromium, and mercury.
 - iv. The two sediment samples collected nearest the dumping area, showed estimated PCB levels of 6,200 and 1,900 ug/kg.
 - v. PCBs, lead, and bis(2-ethylhexyl)phthalate were detected in surface water samples.
 - vi. Capacitor parts (filling rolls and coils) were found buried at some test pit locations. At one location, two capacitors were discovered and put into a drum for off-site disposal.

vii. Cis-1,2-dichloroethene, tetrachloroethene, Bis(2-ethylhexyl)phthalate, PCBs (Aroclor 1254), aluminum, arsenic, barium, beryllium, chromium, iron, lead, manganese, nickel, silver, sodium, thallium, and zinc were detected in ground water samples.

18. Exposure to the various hazardous substances detected at the Site by direct contact, inhalation, or ingestion may cause a variety of adverse human health effects.

19. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9).

20. There have been and continue to be releases and/or threats of releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §9601(22), of hazardous substances into the environment at and from the Site.

21. Respondents are "persons" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. §9601(21). Respondents Texas Eastern Terminal Company, Texas Eastern Transmission Corporation, and Duke Energy Corporation are persons who presently owns the Site, and Respondent Cornell-Dubilier Electronics is a person who generated hazardous substances that were disposed at the Site. Respondents accordingly are responsible parties under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§9604, 9607, and 9622.

22. Respondents have been given an opportunity to discuss with EPA the basis for issuance of this Consent Order and its terms.

23. The actions required by this Consent Order are necessary to protect the public health or welfare or the environment, are in the public interest, are consistent with CERCLA and the NCP, and are expected to expedite effective remedial action and minimize litigation.

VI. NOTICE

24. By providing a copy of this Consent Order to the New Jersey Department of Environmental Protection ("NJDEP"), EPA is notifying the State of New Jersey ("State") that this Consent Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response action required by this Consent Order.

VII. DETERMINATION ORDER

25. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and other information available to EPA, it is hereby ordered and agreed that Respondents shall undertake a

removal action and a RI/FS at the Site in accordance with the requirements specified below. All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion are specified herein.

VIII. WORK TO BE PERFORMED

26. All work performed under this Consent Order shall be under the direction and supervision of qualified personnel. Within fourteen (14) days of the effective date of this Consent Order, Respondents shall provide written notice to EPA of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories, to be used in carrying out such work. The qualifications of the persons undertaking the work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. The Consent Order is contingent upon Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the actions set forth in the Consent Order. If EPA disapproves, in writing, of any person(s)' technical qualifications, Respondents shall notify EPA of the identity and qualifications of the replacement(s) within fourteen (14) days of the written notice. If EPA subsequently disapproves of the replacement(s), EPA reserves the right to terminate this Order and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from Respondents. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes in or additions to the personnel used to carry out such work, and provide their names, titles, and qualifications. EPA shall have the right to approve changes in and additions to personnel.

IX. REMOVAL ACTION

27. Respondents shall conduct the work required hereunder in accordance with CERCLA, the NCP, and guidance which EPA identifies to Respondents, including the Removal Action Statement of Work (SOW), attached hereto as Appendix 1 which will be deemed to be incorporated by reference herein. The activities and deliverables identified below shall be developed as provided for in the Removal SOW and shall be submitted to EPA. All work performed under this Consent Order shall be in accordance with the schedules herein, and in full accordance with the schedules, standards, specifications, and other requirements of the Removal SOW and the Removal Work Plan, as approved by EPA, and as they may be amended or modified by EPA prior to completion of the removal action. For purposes of this Consent Order, day means calendar day unless otherwise noted in this Consent Order.

1. Removal Work Plan. Within fourteen (14) days of the effective date of this Consent Order, Respondents shall submit to EPA a draft Work Plan to implement the site security measures

identified in the attached Removal Statement of Work. The objective of this removal action is to limit public access in order to reduce the threat of direct contact from contaminated soils and sediments. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Consent Order. Control measures will be completed within ninety (90) days from EPA's approval of the Removal Work Plan. The draft Removal Work Plan shall also include a Health and Safety Plan ("HSP"). The HSP shall conform to 29 CFR §1910.120, "OSHA Hazardous Waste Operations Standards," and the EPA guidance document, "Standard Operating Safety Guidelines" (OSWER, 1988).

EPA may approve, disapprove, require revisions to, or modify the draft Removal Work Plan or any other site security plans, reports or items required to be submitted to EPA pursuant to this Order. If EPA disapproves or requires revisions to any such submission(s), Respondent shall submit to EPA a revised submission including, but not limited to the draft Removal Work Plan, with all associated plans, within five (5) business days of receipt of EPA's notifications of the required revisions, unless a different period is specified in the notice or agreed to by EPA. Once approved or approved with modifications, the Removal Work Plan, the schedule, and any subsequent site security measures modifications shall be fully enforceable under this Order. Respondent shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA-approved Removal Work Plan. Respondent shall not commence or undertake any removal action on the Site without prior EPA approval.

If any plans, reports or other items required to be submitted to EPA for approval, pursuant to this Order, are disapproved by EPA, even after being resubmitted following Respondent's receipt of EPA's comments on the initial submittal, Respondent shall be deemed to be out of compliance with this Order, subject to Respondent's right to contest any such determination. If any resubmitted plans, reports or other items, or portions thereof, are disapproved by EPA, EPA may again direct Respondent to make the necessary modifications thereto, and/or EPA may unilaterally amend or develop the item(s) and recover the costs from Respondent of doing so. Respondent shall implement any such item(s) as amended or developed by EPA.

Modifications to any site security measures plan or schedule or Removal Work Plan may be made in writing or by the On Scene Coordinator's (OSC) oral direction. If the OSC makes an oral modification, the OSC will memorialize it in writing within seven (7) calendar days; provided, however, that the effective date of the modifications shall be the date of the OSC's oral direction.

As appropriate during the course of implementation of the removal actions required of Respondents pursuant to this Order,

Respondents or its consultants or contractors, acting through the Project Coordinator, may confer with EPA concerning the required actions. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Project Coordinator may request, in writing, EPA approval of modification(s) to the EPA-approved Removal Work Plan. Only modifications approved by EPA in writing shall be deemed effective. Upon approval by EPA, such modifications shall be deemed incorporated in this Order and shall be implemented by Respondents.

EPA may modify those documents and/or perform or require the performance of such work.

2. Following approval or modification by EPA, the Removal Work Plan shall be deemed to be incorporated into this Consent Order by reference.

3. Within five (5) days of the EPA's approval of the Removal Work Plan, Respondents shall commence implementation of the EPA approved Removal Work Plan in accordance with the terms and schedule therein and in accordance with this Consent Order.

a. Control Measures Final Report. Within thirty-five (35) business days after the completion of the removal actions required under this Consent Order, Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with the site security control measures of this Consent Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Report". The final report shall include:

i. a synopsis of all work performed under this Order;

ii. a detailed description of all EPA-approved modifications to the Removal Work Plan which occurred during Respondent's performance of the work required under this Order;

iii. a good faith estimate of total costs or a statement of actual costs incurred in complying with the Order;

iv. accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, permits).

v. the following certification signed by a person who supervised or directed the preparation of the final report:

"I certify to the best of my knowledge that the information contained in and accompanying this certification is true, accurate, and complete."

EPA either will approve the Final Report or will require modifications thereto pursuant to paragraph 27.

X. REMEDIAL INVESTIGATION/FEASIBILITY STUDY

28. Respondents shall conduct activities and submit deliverables as provided by the attached RI/FS Statement of Work ("SOW") for the development of the RI/FS. Respondents shall conduct the work required hereunder in accordance with CERCLA, the NCP, and EPA guidance, including, but not limited to, Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA (OSWER Directive No. 9355.3-01) (hereinafter, the "RI/FS Guidance"), Guidance for Data Useability in Risk Assessment (OSWER Directive No. 9285.7-05), guidance referenced therein and in the RI/FS SOW, as they may be amended or modified by EPA. The activities and deliverables identified below shall be developed as provided for in the RI/FS Work Plan and shall be submitted to EPA. All work performed under this Consent Order shall be in accordance with the schedules herein, and in full accordance with the schedules, standards, specifications, and other requirements of the RI/FS SOW Work Plan, as approved by EPA, and as they may be amended or modified by EPA prior to completion of the RI/FS.

- a. Task I: RI/FS Work Plan. Within 30 days of the effective date of this Consent Order Respondents shall submit a detailed Work Plan for the RI/FS to EPA for review and approval. The RI/FS Work Plan shall provide for the collection of all data needed for performing the RI/FS. The Work Plan shall comply with CERCLA and relevant EPA guidance, including "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive No. 9355.3-01) (hereinafter, the "RI/FS Guidance"), "Guidance for Data Usability in Risk Assessment" (OSWER Directive #9285.7-05) and guidances referenced therein, as they may be amended or modified by EPA.

The RI/FS Work Plan shall include plans and schedules for implementation of RI/FS tasks, and shall include, but not be limited to, the following items:

1. A Quality Assurance/Quality Control Plan ("QAPP"), which shall be prepared consistent with "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations" (EPA QA/R-5, October 1998).

2. Health and Safety Plan ("HSP"). Within 30 days of the effective date of this Consent Order, Respondent(s) shall submit to EPA the HSP. The HSP shall conform to 29 CFR §1910.120, "OSHA Hazardous Waste Operations Standards," and the EPA guidance document, "Standard Operating Safety Guidelines" (OSWER, 1988).
3. A schedule providing for the completion of site characterization and submission of RI and FS reports.

Upon approval or modification by EPA, the RI/FS Work Plan will be incorporated into this Order.

b. Task II: Community Relations Plan. EPA will develop a site-specific community relations plan and make revisions to this plan as necessary and in accordance with EPA guidance and the NCP. To the extent requested by EPA, Respondents shall provide information supporting EPA's community relations programs.

c. Task III: Site Characterization. Following EPA's written approval or modification of the Work Plan, Respondents shall implement the provisions of the RI/FS Work Plan to characterize the nature, quantity, and concentrations of hazardous substances, pollutants, or contaminants in connection with the Site. Respondents shall provide EPA with validated analytical data within forty-five (45) days of each sampling activity, in an electronic format (i.e., WordPerfect version 6.0 or latest on 3.5" computer disk and Geographic Information System (GIS) software ArcView version 7.1 or ArcInfo version 3.0), in a form showing the location, medium and results. Within seven (7) days of completion of field activities, Respondents shall so advise EPA in writing. Within thirty (30) days of submission to EPA of the final set of validated field data, Respondents shall submit to EPA a Site Characterization Summary Report. Within fourteen (14) days after Respondents' submittal of the Site Characterization Summary Report, Respondents shall make a presentation to EPA and the State on the findings of the Site Characterization Summary Report and discuss EPA's and the State's preliminary comments and concerns associated with the Site Characterization Summary Report. If EPA disapproves of or requires revisions to the Site Characterization Summary Report, in whole or in part, Respondents shall amend and submit to EPA a revised Site Characterization Summary Report which is responsive to the directions in all of EPA's written comments within twenty-one (21) days of receipt of EPA's comments.

d. Task IV: Identification of Candidate Technologies. An Identification of Candidate Technologies Memorandum shall be submitted by Respondents within thirty (30) days of Respondents' submission to the EPA of the last set of validated analytical results. The candidate technologies identified shall include innovative treatment technologies (as defined in the RI/FS Guidance) where appropriate. If EPA disapproves of or requires revisions to the technical memorandum identifying candidate technologies, in whole or in part, Respondents shall amend and submit to EPA a revised technical memorandum identifying candidate technologies which is responsive to the directions in all EPA comments, within fourteen (14) days of receiving EPA's written comments.

e. Task V: Treatability Studies. At EPA's request, Respondents shall conduct treatability studies, except where Respondents can demonstrate to EPA's satisfaction that they are not needed. The major components of the treatability studies should include a determination of the need for and scope of studies, the design of the studies, and the completion of the studies.

If requested by EPA to undertake treatability studies, Respondents shall provide EPA with the following deliverables:

1. Treatability Testing Statement of Work. If EPA determines that treatability testing is required and so notifies Respondents, Respondents shall, within fourteen (14) days thereafter, submit to EPA a Treatability Testing Statement of Work.

2. Treatability Testing Work Plan. Within thirty (30) days of submission of the Treatability Testing Statement of Work, Respondents shall submit a Treatability Testing Work Plan, including a schedule. Upon its approval by EPA, said schedule shall be deemed incorporated into this Order by reference. If EPA disapproves of or requires revisions to the Treatability Testing Work Plan, in whole or in part, Respondents shall amend and submit to EPA a revised Treatability Testing Work Plan which is responsive to the directions in all EPA comments, within twenty-one (21) days of receiving EPA's comments.

3. Treatability Study QAPP, FSAP, and HSP. Within thirty (30) days of the identification by EPA of the need for a separate or revised QAPP, HSP, and/or FSAP, Respondents shall submit to EPA a revised QAPP, HSP and/or FSAP, as appropriate. If EPA disapproves of or requires revisions to the revised QAPP, HSP, and/or FSAP, in whole or in part, Respondents shall amend and submit

to EPA a revised treatability study QAPP, HSP, and/or FSAP, which is responsive to the directions in all EPA comments, within twenty-one (21) days of receiving EPA's comments.

4. Treatability Study Evaluation Report. Within thirty (30) days of completion of any treatability testing, Respondents shall submit a Treatability Study Evaluation Report to EPA. If EPA disapproves of or requires revisions to the Treatability Study Evaluation Report, in whole or in part, Respondents shall amend and submit to EPA a revised Treatability Study Evaluation Report which is responsive to the directions in all EPA comments, within twenty-one (21) days of receiving EPA's comments.

f. Task VI: Baseline Risk Assessment. Respondents shall conduct a baseline risk assessment which identifies and characterizes the actual and potential risks that the Site poses to human health and the environment. The Baseline Risk Assessment Report shall consist of two parts: 1) the Baseline Human Health Risk Assessment ("BHHRA"), and 2) the Baseline Ecological Risk Assessment, both of which shall be incorporated into the RI.

g. Task VII: Remedial Investigation Report. In accordance with the schedule set forth in the Work Plan, Respondents shall submit to EPA a Draft RI Report consistent with the Work Plan and the RI/FS Guidance. If EPA disapproves of or requires revisions to the Draft RI Report, in whole or in part, Respondents shall amend and submit to EPA a Final RI Report which is responsive to the directions in all EPA comments, within thirty (30) days of receiving EPA's comments.

h. Task VIII: Development of Remedial Action Objectives, and Development and Screening of Alternatives. Respondents shall develop remedial action objectives and develop and screen remedial alternatives. Within thirty (30) days after EPA's approval of the Baseline Risk Assessment Report, Respondents shall make a presentation to EPA and the State during which Respondents shall identify the remedial action objectives and summarize the development and preliminary screening of remedial alternatives. Respondents shall address any comments made by EPA during this presentation in the FS Report.

i. Task IX: Draft Feasibility Study Report. Within thirty (30) days of the Task VIII presentation to EPA, Respondents shall submit to EPA a draft FS report which reflects the findings in EPA's Baseline Risk Assessment. Respondents shall refer to the RI/FS Work Plan and the

RI/FS Guidance for report content and format. Within fourteen (14) days of submitting the draft FS report, Respondents shall make a presentation to EPA and the State at which Respondents shall summarize the findings of the draft FS report and discuss EPA's and the State's preliminary comments and concerns associated with the draft FS report. If EPA disapproves of or requires revisions to the draft FS report, in whole or in part, Respondents shall amend and submit to EPA a revised draft FS report which is responsive to the directions in EPA's comments, within twenty-one (21) days of receiving EPA's written comments. Respondents may invoke the Dispute Resolution procedures set forth in Section XX below in the event of a dispute between Respondents and EPA regarding EPA's disapproval of or required revisions to the FS report.

29. EPA reserves the right to comment on, modify and direct changes for all deliverables. Respondents must fully correct all deficiencies and incorporate and integrate all information and comments supplied by EPA either in subsequent or resubmitted deliverables.

30. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval for the following deliverables: RI/FS Work Plan, Treatability Testing Work Plan, and Treatability Study FSAP and QAPP (if treatability study work is required to be undertaken). While awaiting EPA approval of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth in this Consent Order.

31. For all remaining deliverables not enumerated above in the previous paragraph, Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

32. In the event that Respondents amend or revise a report, plan or other submittal upon receipt of EPA comments, if EPA in its discretion subsequently disapproves of the revised submittal or any portion thereof, or if subsequent submittals do not fully reflect EPA's directions for changes, EPA retains the right in its sole discretion to seek stipulated or statutory penalties, perform its own studies, complete the RI/FS (or any portion of the RI/FS) under CERCLA and the NCP, and seek reimbursement from the Respondents and/or other potentially responsible parties for its costs; and/or seek any other appropriate relief.

33. In the event that EPA takes over some of the tasks, but not the preparation of the RI and FS reports, Respondents shall incorporate and integrate information supplied by EPA into the final RI and FS reports.

34. The failure of EPA to either expressly approve, disapprove, or comment upon Respondents' submissions within a specified time period(s) shall not be construed as approval by EPA.

35. Respondents shall assure that all work performed, samples taken and analyses conducted conform to the requirements of the Work Plan, the EPA-approved QAPP and guidances identified therein. Respondents shall assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures.

36. All materials removed from the Site shall be disposed of or treated at a facility in accordance with Section 121(d)(3) of CERCLA, 42 U.S.C. Section 9621(d)(3), and the NCP. All disposal of materials conducted by the Respondents pursuant to performing this Order shall comply with all provisions of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq., the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2601 et seq., all regulations promulgated pursuant to both RCRA and TSCA, and all applicable state laws and regulations.

a. Respondents shall, prior to any off-Site shipment of hazardous substances from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the notification of shipments shall not apply to any such off-Site shipments when the total volume of such shipments does not exceed 10 cubic yards.

b. The notification shall be in writing, and shall include the following information, where available: (1) the name and location of the receiving facility to which the hazardous substances are to be shipped; (2) identification of permits and licenses held by the receiving facility for the treatment, storage and disposal of the hazardous wastes from the Site; (3) the type and quantity of the hazardous substances to be shipped; (4) the expected schedule for the shipment of the hazardous substances; and (5) the method of transportation. Respondents shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.

c. The identity of the receiving facility and state to which any hazardous substances from the Site will be shipped will be determined by Respondents following the award of the contract for the RI/FS. Respondents shall provide all relevant information, including information under the categories noted in subparagraph a, above, on the off-Site shipments, as soon as practical after the award of the contract and before the hazardous substances are actually shipped.

XI. NOTIFICATION AND REPORTING REQUIREMENTS

37. All reports and other documents submitted by Respondents to EPA (other than the monthly progress reports referred to below) which purport to document Respondents' compliance with the terms of this Consent Order shall be signed by a responsible corporate official(s) of one or more of the Respondents or by the Project Coordinator who has been delegated this responsibility by the Respondents and whose qualifications have been found by EPA to be acceptable, pursuant to paragraph 26 of this Order. Notwithstanding such a delegation of responsibility, Respondents shall remain liable for the proper performance of the work required by this Order. For purposes of this Consent Order, a responsible corporate official is an official who is in charge of a principal business function.

38. Until the termination of this Consent Order, Respondents shall prepare and provide EPA with written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Consent Order during the previous month; (2) include all results of sampling, tests, modeling and all other data (including raw data) received or generated by or on behalf of Respondents during the previous month in the implementation of the work required hereunder; (3) describe all actions, data and plans which are scheduled for the next two months and provide other information relating to the progress of work as is customary in the industry; (4) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays. These progress reports shall be submitted to EPA by Respondents by the fifteenth (15) day of every month following the effective date of this Consent Order.

39. Upon the occurrence of any event, during performance of the work required under this Order, that requires reporting to the National Response Center pursuant to Section 103 Of CERCLA, Respondents shall, within twenty-four (24) hours, orally notify the EPA Project Coordinator (or, in the event of the unavailability of the EPA Project Coordinator, the Chief of the Central New Jersey Remediation Section of the Emergency and

Remedial Response Division of EPA Region II), in addition to the reporting required by Section 103 of CERCLA. Within twenty (20) days of the onset of such an event, Respondents shall furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto.

40. All work plans, reports, notices and other documents required to be submitted to EPA under this Consent Order shall be sent by certified mail, return receipt requested, to the following addressees:

7 copies: Chief, New Jersey Remediation Branch
(including Emergency and Remedial Response Division
1 un-bound United States Environmental Protection Agency
copy) 290 Broadway, 19th floor
New York, New York 10007-1866

Attention: Mr. Peter Mannino, Woodbrook Road Dump
Superfund Site Project Coordinator

1 copy: Chief, New Jersey Superfund Branch
Office of Regional Counsel
United States Environmental Protection Agency
290 Broadway, 17th floor
New York, New York 10007-1866

Attention: Mr. William C Tucker, Woodbrook Road
Dump Superfund Site Attorney

5 copies: New Jersey Department of Environmental Protection
Bureau of Federal Case Management
Division of Responsible Party Site Remediation
Attn: Woodbrook Road Dump Site Case Manager
401 East State Street, Floor 5
P.O. Box 028
Trenton, New Jersey 08625-0028

41. Respondents shall give EPA at least fourteen (14) days advance notice of all field work or field activities to be performed by Respondents pursuant to this Consent Order.

XII. MODIFICATION OF THE WORK PLAN

42. If at any time during the RI/FS process, Respondents identify a need for additional data, a memorandum documenting the need for additional data shall be submitted to the EPA Project Coordinator within twenty (20) days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and deliverables.

43. In the event of conditions posing an immediate threat to human health or welfare or the environment, Respondents shall notify EPA and NJDEP immediately. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA Project Coordinator (or, in the event of the unavailability of the EPA Project Coordinator, the Chief of the Central New Jersey Remediation Section of the Emergency and Remedial Response Division of EPA Region II) by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. In addition to the authorities in the NCP, in the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the Work Plan, EPA will modify or amend or direct Respondents to modify or amend the Work Plan in writing accordingly. Respondents shall implement the Work Plan as modified or amended.

44. EPA may determine that in addition to tasks defined in the initially-approved RI/FS Work Plan, other additional work may be necessary to accomplish the objectives of the RI/FS. EPA may require, pursuant to this Order, that the Respondents perform these response actions in addition to those required by the initially-approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS. Subject to EPA resolution of any dispute pursuant to Section XX, Respondents shall implement the additional tasks which EPA determines are necessary. The additional work shall be completed according to the standards, specifications and schedule set forth or approved by EPA in a written modification to the RI/FS Work Plan or written Work Plan supplement. EPA reserves the right to conduct the work itself at any point, to seek reimbursement for the costs associated with the work from Respondents, and/or to seek any other appropriate relief.

XIII. FINAL RI/FS; PROPOSED PLAN, PUBLIC COMMENT,
RECORD OF DECISION, ADMINISTRATIVE RECORD

45. EPA retains the responsibility for the release to the public of the RI and FS reports. EPA retains responsibility for the preparation and release to the public of the proposed remedial action plan and record of decision in accordance with CERCLA and the NCP.

46. EPA will provide Respondents with the final RI and FS reports (to the extent that Respondents do not already have these reports), proposed remedial action plan, and record of decision.

47. EPA will assemble the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the remedial action may be based. Respondents shall provide copies of plans, task memoranda including documentation

of field modifications, recommendations for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Respondents shall additionally submit any previous studies, conducted under state, local or other federal authorities relating to selection of the response action and all communications between Respondents and state, local or other federal authorities concerning selection of the response action.

XIV. PROJECT COORDINATORS, OTHER PERSONNEL

48. EPA has designated the following individual as its Project Coordinator with respect to the Site:

Mr. Peter Mannino
Central New Jersey Remediation Section
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway, 19th Floor
New York, New York 10007-1866
(212) 637-4395

No later than seven (7) days after the effective date of this Consent Order, Respondents shall select their own Project Coordinator and shall notify EPA in writing of the name, address, qualifications, job title and telephone number of that Project Coordinator. He or she shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Consent Order. Respondents' and EPA's Project Coordinators shall be responsible for overseeing the implementation of this Consent Order and shall coordinate communications between EPA and Respondents. EPA and Respondents may change their respective Project Coordinators. Such a change shall be accomplished by notifying the other party in writing at least ten (10) days prior to the change where possible, and concurrently with the change or as soon thereafter as possible in the event that advance notification is not possible.

49. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, EPA's Project Coordinator shall have the authority, consistent with the NCP, to halt any work required by this Consent Order, and to take any necessary response action when he/she determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Consent Order shall not be cause for the stoppage or delay of work.

50. All activities required of Respondents under the terms of this Consent Order shall be performed only by qualified persons

possessing all necessary permits, licenses, and other authorizations required by applicable law.

XV. OVERSIGHT

51. During the implementation of the requirements of this Consent Order, Respondents and their contractors and subcontractors shall be available for such conferences and inspections with EPA as EPA may determine are necessary for EPA to adequately oversee the work being carried out and/or to be carried out.

52. Respondents and their employees, agents, contractors and consultants shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Consent Order.

XVI. SAMPLING, ACCESS AND DATA AVAILABILITY/ADMISSIBILITY

53. If any area to which access is necessary to perform work under this Consent Order is owned in whole or in part by parties other than those bound by this Consent Order, Respondents shall obtain, or use their best efforts to obtain, access agreements from the present owner(s) within thirty (30) days of the effective date of this Consent Order. Such agreements shall provide access for EPA, its contractors and oversight officials, NJDEP and its contractors, and the Respondents or their authorized representatives, and agreements for such access shall specify that Respondents are not EPA's representative with respect to liability associated with Site activities. Copies of such agreements shall be provided to EPA upon request prior to Respondents' initiation of field activities. Respondents' best efforts shall include providing reasonable compensation to any property owner. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA of their failure to obtain access. EPA may, in its sole discretion, obtain access for Respondents, perform those tasks or activities with EPA contractors, or terminate this Consent Order in the event that Respondents cannot obtain access agreements. In the event that EPA performs those tasks or activities with EPA contractors and does not terminate this Consent Order, Respondents shall reimburse EPA for all costs incurred in performing such activities and shall perform all other activities not requiring access to the given property. Respondents additionally shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables. Furthermore, Respondents agree to indemnify the United States as specified in paragraph 93 of this Consent Order. Respondents also shall reimburse EPA pursuant to paragraph 78 for all costs and attorney fees incurred by the United States in its efforts to obtain access for Respondents.

54. At all reasonable times, EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-Site areas where work, if any, is being performed, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondents and their contractor pursuant to this Consent Order; reviewing the progress of the Respondents in carrying out the terms of this Consent Order; conducting tests as EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to EPA by Respondents. Respondents agree to provide EPA and its designated representatives with access to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to work undertaken in carrying out this Consent Order. All parties with access to the Site under this paragraph shall comply with all approved health and safety plans.

55. All data, records, photographs and other information created, maintained or received by Respondents or their agents, contractors or consultants in connection with implementation of the work under this Consent Order, including but not limited to contractual documents, quality assurance memoranda, raw data, field notes, laboratory analytical reports, invoices, receipts, work orders and disposal records, shall, without delay, be made available to EPA on request. EPA shall be permitted to copy all such documents and other items.

56. Upon request by EPA, or its designated representatives, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Consent Order, or allow EPA or its designated representatives to take such duplicate or split samples.

57. Respondents may assert a claim of business confidentiality under 40 C.F.R. § 2.203, covering part or all of the information submitted to EPA pursuant to the terms of this Consent Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA or State of New Jersey without further notice to Respondents. Respondents agree not to assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

58. Notwithstanding any other provision of this Consent Order, EPA hereby retains all of its information gathering, access and

inspection authority under CERCLA, the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6991, and any other applicable statute or regulation.

59. In entering into this Consent Order, Respondents waive any objections to any data gathered, generated, or evaluated by EPA, NJDEP or Respondents in the performance or oversight of the work that has been verified according to the quality assurance/quality control (QA/QC) procedures required pursuant to this Consent Order. If Respondents object to any other data relating to the RI/FS and which is submitted in a monthly progress report in accordance with paragraph 38 herein, Respondents shall submit to EPA a report that identifies and explains their objections, describes their views regarding the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within fifteen (15) days of the monthly progress report containing the data.

XVII. OTHER APPLICABLE LAWS

60. Respondents shall comply with all laws that are applicable when performing the RI/FS. No local, state, or federal permit shall be required for any portion of the work, including studies, required hereunder which is conducted entirely on-Site, where such work is carried out in compliance with Section 121 of CERCLA; however, Respondents must comply with the substantive requirements that would otherwise be included in such permits. For any work performed pursuant to this Consent Order which is not "on-site", as defined in Sections 300.5 and 300.400(e) of the NCP, Respondents shall obtain all permits necessary under applicable laws and shall submit timely applications and requests for any such permits. This Consent Order is not, nor shall it act as, a permit issued pursuant to any federal or state statute or regulation.

XVIII. RECORD PRESERVATION

61. All records and documents in Respondents' possession that relate in any way to the Site shall be preserved during the conduct of this Consent Order and for a minimum of ten (10) years after commencement of construction of any remedial action which is selected following the completion of the RI/FS. Respondents shall acquire and retain copies of all documents that relate to the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this 10-year period, Respondents shall notify EPA at least ninety (90) days before the documents are scheduled to be destroyed. If EPA requests that the documents be saved, Respondents shall, at no cost to EPA, give the documents or copies of the documents to EPA.

XIX. COMMUNITY RELATIONS

62. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. To the extent requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public and make presentations at, and participate in, public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

XX. DISPUTE RESOLUTION

63. Any significant dispute concerning activities or deliverables required under this Consent Order, for which dispute resolution has been expressly provided for herein shall be resolved as follows: if Respondents object to an EPA notice of disapproval or determination made pursuant to this Consent Order, and if the given dispute is one for which dispute resolution has been expressly provided for herein, Respondents shall notify EPA's Project Coordinator, in writing, of their objections within fourteen (14) days of receipt of the disapproval notice or determination. Respondents' written objections shall define the dispute, state the basis of Respondents' objections, and be sent to EPA by certified mail, return receipt requested. EPA and Respondents then have an additional fourteen (14) days to reach agreement. If an agreement is not reached within the fourteen (14) days, Respondents may, within seven (7) days of the conclusion of the aforementioned 14-day period, request a determination by the Chief of the New Jersey Remediation Branch of the Emergency and Remedial Response Division, EPA Region II (hereinafter, the "Chief"). Such a request by Respondents shall be made in writing. The Chief's determination is EPA's final decision. Respondents shall proceed in accordance with EPA's final decision regarding the matter in dispute, regardless of whether Respondents agree with the decision. If Respondents do not agree to perform or do not actually perform the work in accordance with EPA's final decision, EPA reserves the right in its sole discretion to conduct the work itself and seek reimbursement from the Respondents of the costs of that work, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.

64. Respondents are not relieved of their obligations to perform and conduct activities and submit deliverables on the schedules which are approved by EPA and applicable to the work required pursuant to this Consent Order, while a matter is pending in dispute resolution. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this Consent Order.

XXI. DELAY IN PERFORMANCE/STIPULATED PENALTIES

65. For each day that Respondents fail to comply with any of the requirements of this Consent Order, EPA may assess, and if so, Respondents shall pay stipulated penalties in accordance with the terms below. For purposes of this paragraph, the term "fail to comply" shall include failure by the Respondents to submit an original or revised deliverable within the time limits set forth in or established pursuant to this Order, failure to revise a deliverable to fully conform with EPA's comments, and submittal of an original deliverable which is of such poor quality as to not even qualify as a bona fide submission. Stipulated penalties begin to accrue on the day that performance is due or a violation occurs, and shall continue to accrue until the noncompliance is corrected, or until EPA notifies Respondents in writing that EPA is assuming responsibility for the portion of work for which penalties are accruing, whichever occurs earlier. Where a revised submission by Respondents is required by EPA, stipulated penalties shall continue to accrue until a deliverable satisfactory to EPA is produced. EPA will provide written notice of those violations for which EPA is assessing stipulated penalties; penalties shall, however, accrue from the day a violation commences. Payment shall be due within thirty (30) days of receipt of a demand letter from EPA, or within 30 days of completion of dispute resolution under Section XX (should the dispute resolution procedures be timely invoked by Respondents with respect to an EPA assessment of stipulated penalties), whichever is later.

66. Respondents shall pay interest on any unpaid balance, which shall begin to accrue at the end of the 30-day period referred to in paragraph 65, above, at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. §9607(a).

67. Respondents shall make all payments by electronic funds transfer or by forwarding a cashier's or certified check to:

EPA - Region 2
Attn: Superfund Accounting
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Checks shall identify the name of the Site, the Site identification number (NJSFN0204260), the account number (8Z), and the index number of this Order. A copy of the check and of the accompanying transmittal letter shall be sent to the first two addressees listed in paragraph 40 above.

Payment remitted via EFT shall be made to Mellon Bank, Pittsburgh, Pennsylvania as follows:

To make payment via EFT, Respondents shall provide the following information to its bank:

- Amount of Payment
- Title of Mellon Bank account to receive the payment: EPA
- Account code for Mellon Bank account receiving the payment: 9108544
- Mellon Bank ABA Routing Number: 043000261 - Name of Respondent
- Case Number : II-CERCLA-98-XXXXX
- Site/spill identifier: 02 - NX

Along with this information, Respondents shall instruct their bank to remit payment in the required amount via EFT to EPA's account with Mellon Bank.

To ensure that Respondent's payment is properly recorded, Respondent shall send a letter, within one week of the EFT, which references the date of the EFT, the payment amount, the name of the site, the case number and Respondent's name and address to:

EPA addresses in paragraph 40 above and to:
Donna Vizian-McCabe
Chief, Financial Management Branch
US EPA
Region II
290 Broadway
New York, New York 10007

68. For all violations of this Order, stipulated penalties shall accrue as follows:

<u>Period of Non-compliance</u> <u>Day</u>	<u>Penalty Per Violation Per</u>
1st through 5th day	\$1,000
6th through 10th day	\$2,000
11th through 20th day	\$5,000
21st through 28th day	\$10,000
29th day and beyond	\$15,000

69. Respondents may dispute EPA's determination of a violation for which penalties are assessed, but not the daily amount of such penalties, by invoking the dispute resolution procedures under Section XX herein. Penalties shall accrue but need not be paid during the dispute resolution period. If Respondents do not prevail upon resolution, all penalties shall be due to EPA within 30 days of resolution of the dispute. If Respondents prevail upon resolution, no penalties shall be paid.

70. In the event that EPA requires that corrections to an interim deliverable be reflected in the next deliverable, rather than requiring that the interim deliverable be resubmitted, any

stipulated penalties which accrue for that interim deliverable shall cease to accrue on the date of such decision by EPA.

71. The stipulated penalties provisions of this Order do not preclude EPA from pursuing any other remedies or sanctions which are available to EPA because of the Respondents' failure to comply with this Order, including but not limited to conduct of all or part of the RI/FS by EPA. Payment of stipulated penalties does not alter Respondents' obligation to complete performance under this Order.

XXII. FORCE MAJEURE

72. "Force majeure", for purposes of this Consent Order, is defined as any event arising from causes beyond the control of Respondents and of any entity controlling, controlled by, or under common control with Respondents, including their contractors and subcontractors, that delays the timely performance of any obligation under this Consent Order notwithstanding Respondents' best efforts to avoid the delay. The requirement that Respondents exercise "best efforts to avoid the delay" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Consent Order or the financial difficulty of Respondents to perform such work.

73. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Order, whether or not caused by a force majeure event, Respondents shall notify by telephone the EPA Project Coordinator or, in his or her absence, the Chief of the Central New Jersey Remediation Section of the Emergency and Remedial Response Division, EPA Region II, within forty-eight (48) hours of when Respondents knew or should have known that the event might cause a delay. Within five (5) business days thereafter, Respondents shall provide in writing: the reasons for the delay; Respondents' rationale for interpreting the circumstances as constituting a force majeure event (should that be Respondents' claim); the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to mitigate the effect of the delay; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health, welfare or the environment. Such written notice shall be accompanied by all available pertinent documentation including, but not limited to, third-party correspondence. Respondents shall exercise best efforts to avoid or minimize any delay and

any effects of a delay. Failure to comply with the above requirements shall preclude Respondents from asserting any claim of force majeure.

74. If EPA agrees that the delay or anticipated delay is attributable to force majeure, the time for performance of the obligations under this Consent Order that are directly affected by the force majeure event will be extended for a period of time, determined by EPA, not to exceed the actual duration of the delay caused by the force majeure event. An extension of the time for performance of the obligation directly affected by the force majeure event shall not, of itself, extend the time for performance of any subsequent obligation.

75. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure event or if Respondents object to the length of the extension determined by EPA pursuant to paragraph 74, above, the issue shall be subject to the dispute resolution procedures set forth in Section XX of this Consent Order. In order to qualify for a force majeure defense, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay was or will be warranted under the circumstances, that Respondents did exercise or are exercising due diligence by using their best efforts to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of paragraph 73.

76. Should Respondents carry the burden set forth in paragraph 73, the delay at issue shall not be deemed a violation of the affected obligation of this Consent Order.

XXIII. REIMBURSEMENT

77. Within thirty (30) days of the effective date of this Order, Respondents shall pay \$713,412.29 to EPA in reimbursement of costs incurred by EPA in connection with the Site as of July 3, 2002. Respondents shall pay any additional costs incurred by EPA prior to July 3, 2002 within 30 days of EPA's provision of a billing to Respondents for that additional amount. Respondents shall make such payments by cashier's or certified check made payable to the "Hazardous Substance Superfund".

78. Respondents hereby also agree to reimburse EPA for all response costs, including oversight costs, which have been incurred and will be incurred by the EPA with respect to the Removal Action(s) and RI/FS. EPA may periodically send billings to Respondents for such costs incurred by EPA. Those billings may be accompanied by a printout of cost data in EPA's financial management system and by a calculation of EPA's indirect costs, but in no event shall further documentation be required in

support of such billings under this paragraph. EPA's costs may include, but are not limited to, costs incurred by the EPA in overseeing Respondents' implementation of the Removal Action and RI/FS requirements of this Order and activities performed by the EPA as part of the RI/FS and community relations, including any costs incurred while obtaining access. Such costs will include both direct and indirect costs, including but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, cooperative agreement costs, costs of compliance monitoring, including the collection and analysis of split samples, inspection of Removal and RI/FS activities, Site visits, discussions regarding disputes that may arise as a result of this Order, review and approval or disapproval of reports, costs of performing the Baseline Risk Assessment, and costs of redoing any of Respondents' tasks. Respondents shall, within thirty (30) days of receipt of each such billing, remit a cashier's or certified check for the amount of those costs, made payable to the "Hazardous Substance Superfund".

79. Respondents may invoke the Dispute Resolution procedures of Section XX of this Consent Order with respect to payment demands submitted to Respondents by EPA under paragraph 78. However, Respondents agree to limit any disputes concerning such costs to mathematical errors and the inclusion of costs which are outside the scope of this Consent Order. Respondents shall identify any contested costs and the basis of their objection. All undisputed costs shall be remitted by Respondents in accordance with the schedule set forth above. Disputed costs shall be paid by Respondents into an escrow account while the dispute is pending. Respondents bear the burden of establishing an EPA mathematical error or the inclusion of costs which are outside the scope of this Consent Order.

80. Each of the payments that Respondents are required to pay shall be made by electronic funds transfer, as described in paragraph 67 above, or be mailed to the following address:

EPA - Region II
Attn: Superfund Accounting
P.O. Box 360188M
Pittsburgh, Pennsylvania 15251

Checks shall include the name of the Site, and the index number of this Consent Order. A copy of each check and of the accompanying transmittal letter shall be sent to the first two addresses listed in paragraph 40, above.

81. Respondents shall pay interest on any amounts overdue under paragraphs 77 and 78. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous

Substances Superfund, in accordance with Section 107(a) of CERCLA.

XXIV. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

82. EPA reserves the right to bring an action against Respondents (and/or any other responsible parties) under Section 107 of CERCLA for recovery of all response costs incurred by the United States at the Site that are not reimbursed by Respondents, including, but not limited to, oversight costs, any costs incurred in the event that EPA performs the Removal Action, RI/FS or any part thereof and any future costs incurred by the United States in connection with response activities conducted under CERCLA at the Site.

83. Nothing contained in this Order shall act as a bar to, a release of, a satisfaction of, or a waiver of any claim or cause of action which EPA has at present or which EPA may have in the future against any entity, including any or all of the Respondents, on any matters relating to the Site.

a. EPA reserves the right to bring an action against Respondents to enforce the requirements of this Consent Order, to collect stipulated penalties assessed pursuant to Section XXI of this Consent Order, and to seek penalties pursuant to Section 109 of CERCLA, 42 U.S.C. §9609, or any other applicable provision of law.

b. Nothing contained in this Order shall affect the right of EPA to enter into any Consent Decree, or to issue any other Orders unilaterally to any or all of the Respondents (or to any other responsible parties for the Site) pursuant to CERCLA, or to initiate a judicial action to require the performance of any additional response actions which EPA determines are necessary for the Site.

84. Nothing in this Consent Order shall be construed to limit, in any way, EPA's response or enforcement authorities including, but not limited to, the right to seek injunctive relief, stipulated penalties, statutory penalties, and/or punitive damages.

a. Nothing contained in this Order shall be construed to mean that the Respondents are the only potentially responsible parties with respect to the release and threatened release of hazardous substances at the Site.

b. Nothing in this Order constitutes a decision by EPA on pre-authorization or on any approval of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. §9611(a)(2).

c. The Respondents waive any claim to payment under sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substances Superfund arising out of any actions performed under the Order.

d. Nothing in this Order shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment, or to prevent, abate, or mitigate an actual or threatened release of hazardous substances on, at, or from the Site.

85. Following satisfaction of the requirements of this Consent Order, Respondents shall have resolved their liability to EPA for the work performed by Respondents pursuant to this Consent Order. Respondents are not released from liability, if any, for any response actions taken beyond the scope of this Consent Order regarding removals, other operable units, remedial design/remedial action of this operable unit, or activities arising pursuant to Section 121(c) of CERCLA.

XXV. DISCLAIMER

86. By signing and taking actions under this Consent Order, Respondents do not admit, adopt, accept, concede, or acknowledge EPA's Findings of Fact and Conclusions of Law contained herein. Respondents reserve the right to contest such Findings of Fact and Conclusions of Law in any proceeding regarding the Site other than an action brought by the United States, including EPA, to enforce this Order. Furthermore, the participation of Respondents in this Order shall not be considered an admission of liability and is not admissible in evidence against Respondents in any judicial or administrative proceeding other than a proceeding by the United States, including EPA, to enforce this Consent Order or a judgement relating to it. Except as otherwise provided in this Order, Respondents do not admit liability under CERCLA or any other statute or common law and any responsibility for response costs or damages thereunder, and do not, by signing this Order, waive any rights they may have. Respondents retain their rights to assert claims against other potentially responsible parties at the Site. However, Respondents agree not to contest the validity or the terms of this Consent Order in any action brought by the United States, including EPA, to enforce its terms.

XXVI. OTHER CLAIMS

87. In entering into this Consent Order, Respondents waive any right to seek reimbursement, under Section 106(b) of CERCLA. Respondents also waive any right to present a claim with respect to such costs under Section 111 or 112 of CERCLA or under any

other provision of law for costs incurred in the performance of this Consent Order. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA. Respondents further waive all other statutory and common law claims against EPA, including, but not limited to, contribution and counterclaims, relating to or arising out of conduct of the RI/FS or this Consent Order.

88. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any "person," as that term is defined in Section 101(21) of CERCLA, not a signatory to this Consent Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, pollutants, or contaminants found at, taken to, or taken from the Site. Nothing herein shall constitute a finding that Respondents are the sole responsible parties with respect to the release and threatened release of hazardous substances at or from the Site.

89. Respondents shall bear their own costs and attorney fees.

XXVII. FINANCIAL ASSURANCE, INSURANCE, AND INDEMNIFICATION

90. Respondents shall establish and maintain a financial instrument or trust account or other financial mechanism acceptable to EPA, funded sufficiently to perform the work and any other obligations required under this Consent Order, including a margin for cost overruns. Within fifteen (15) days after the effective date of this Consent Order, Respondents shall fund the financial instrument or trust account sufficiently to perform the work required under this Consent Order projected for the period beginning with the effective date of this Consent Order through the date of EPA's approval of Respondents' certification pursuant to paragraph 100, below.

91. If at any time the net worth of the financial instrument or trust account is insufficient to perform the work and other obligations under this Consent Order for the upcoming quarter, Respondents shall provide written notice to EPA within seven (7) days after the net worth of the financial instrument or trust account becomes insufficient. The written notice shall describe why the financial instrument or trust account is funded insufficiently and explain what actions have been or will be taken to fund the financial instrument or trust account adequately.

92. (a) Prior to commencement of any work under this Consent Order, Respondents shall provide evidence to EPA demonstrating that one or more of the Respondents pass the financial test described in 40 C.F.R. §264.147(f) corresponding to liability coverage in the amount of ten million dollars.

(b) For the duration of this Consent Order, Respondents shall satisfy, and shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of employer's liability insurance and workmen's compensation insurance for all persons performing work on behalf of Respondents, in furtherance of this Consent Order.

93. Respondents agree to indemnify and hold the United States Government, its agencies, departments, agents, and employees harmless from any and all claims or causes of action arising from or on account of acts or omissions of Respondents, their employees, agents, servants, receivers, successors, or assignees, or any other persons acting on behalf of Respondents, including, but not limited to, firms, corporations, parent, subsidiaries and contractors, in carrying out activities under this Consent Order. The United States Government or any agency or authorized representative thereof shall not be held as a party to any contract entered into by Respondents in carrying out activities under this Consent Order.

94. Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions by Respondents or Respondents' officers, directors, employees, agents, contractors, consultants, receivers, trustees, successors or assigns in carrying out any action or activity pursuant to this Consent Order.

XXVIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

95. This Consent Order shall be effective on the date it is executed by the Regional Administrator.

96. This Consent Order may be amended by mutual agreement of EPA and Respondents. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to this Consent Order.

97. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondents will be construed as relieving Respondents of its obligation to obtain such formal approval as may be required by this Consent Order. Any deliverables, plans, technical memoranda, reports (other than progress reports), specifications, schedules and other documents required to be submitted to EPA pursuant to this Consent Order shall, upon approval by EPA, be deemed to be incorporated in and an enforceable part of this Consent Order.

XXIX. ADDITIONAL REMOVAL ACTION

98. If EPA determines that additional removal action(s) not included in the approved Removal Work Plan are necessary to protect public health, welfare, or the environment, EPA will notify Respondent of that determination. Unless otherwise stated by EPA, within ten (10) business days of receipt of notice from EPA that additional removal action(s) are necessary to protect public health, welfare, or the environment, Respondent shall submit for approval by EPA a Work Plan for the additional removal action(s). The plan shall conform to the applicable requirements for this Consent Order. Upon EPA's approval of the plan, Respondent shall implement the plan for additional removal action(s) in accordance with the provisions and schedule contained therein. This section does not alter or diminish the OSC's and RPM's authority to make oral modifications to any plan or schedule pursuant to Sections IX and X.

XXX. TERMINATION AND SATISFACTION

99. This Consent Order shall terminate when Respondents demonstrate in writing and certify to the satisfaction of EPA that all activities required under this Consent Order - including any additional work, payment of costs in accordance with Section XXIII of this Consent Order, and payment of any stipulated penalties demanded by EPA - have been performed and EPA has approved the certification in writing. This notice shall not, however, terminate Respondents' obligation to comply with any of Respondents' remaining obligations under this Consent Order, including record preservation and the payment of any costs specified in Section XXIII of this Consent Order which have not yet, at that time, been paid by Respondents.

100. The certification referred to in paragraph 99, above, shall be signed by a responsible official(s) representing each Respondent. Such representative shall make the following attestation:

"I certify that the information contained in or accompanying this certification is true, accurate, and complete."

For purposes of this Consent Order, a responsible official is a corporate official who is in charge of a principal business function.

U.S. ENVIRONMENTAL PROTECTION AGENCY

JANE KENNY
Regional Administrator
U.S. Environmental Protection Agency
Region II

Date

CONSENT

The Respondent identified below has had an opportunity to confer with EPA regarding this Consent Order. Respondent hereby consents to the issuance of this Consent Order and to its terms. The individual executing this Consent Order on behalf of Respondent certifies under penalty of perjury under the laws of the United States and of the State of Respondent's incorporation that he or she is fully and legally authorized to agree to the terms and conditions of this Consent Order and to bind Respondent thereto.

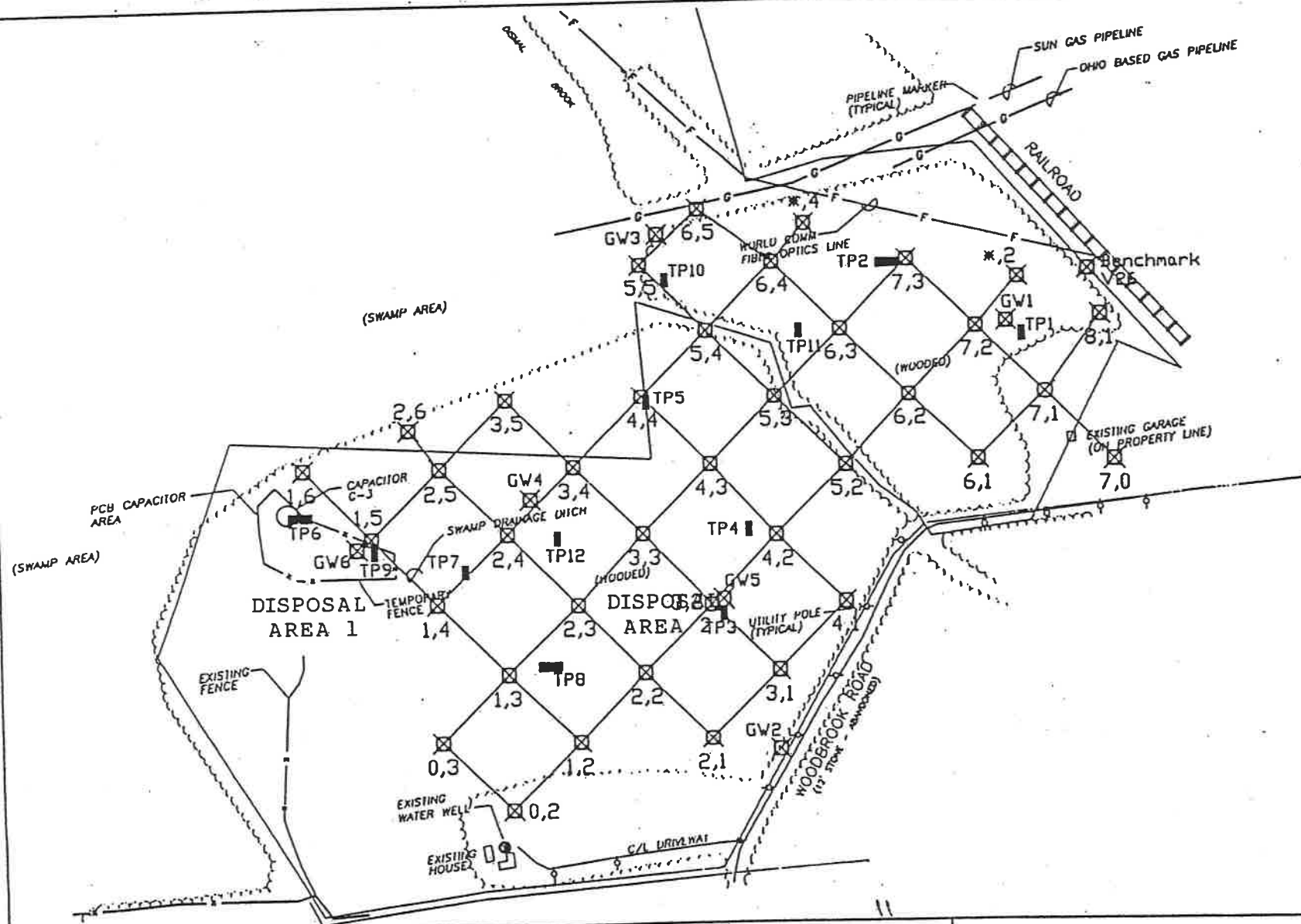
NAME OF RESPONDENT

Date

(signature)

(typed name of signatory)

(title of signatory)



LEGEND

- 0,2 Surface Sample Points
- GW1 Groundwater Sample Points
- TP1 Test Pit Points

E A R T H T E C H



A tyco INTERNATIONAL LTD. COMPANY

Dismal Swamp Sample Locations

Dismal Swamp
South Plainfield, NJ

APPENDIX 1
STATEMENT OF WORK FOR
REMOVAL ACTION AT THE
WOODBROOK ROAD DUMP SITE
SOUTH PLAINFIELD, NEW JERSEY

The objective of this removal action is to reduce the threat of direct contact to contaminated soils at the site.

The mitigative measures required during this proposed removal action will include, but not limited to:

- i. Site control and security, to include, providing police patrols of the site four (4) times a week to stop trespassing, until such time as (1) Respondent installs an 8 foot high fence along the perimeter of the site and (2) Respondent installs an 8 foot high fence around Disposal Area 1 and Disposal Area 2 (see Figure 1) or Respondent completes installation and begins electronic surveillance system that notifies a remote location whenever an individual attempts to enter the Disposal Area 1 or Disposal Area 2 of the Site.
 - a. Terminal posts will consist of 2.5" outer diameter (OD) pipe terminal posts and concreted in place. Line posts will consist of 2.0" OD posts and concreted in place. Concrete footings will be 12" OD to a depth of 3 feet. Top rail posts will be installed along the top of the fence. No. 7 galvanized coil spring wire will be installed along the bottom of the fence.
 - b. All soils excavated for the post holes will be placed on the ground surface, inside the fence line. Any contaminated soils will be placed on and covered with 6 mil heavy plastic.

The electronic surveillance system must provide for someone to respond within 30 minutes, to each security breach. All security breaches must be reported to the OSC. The OSC shall have the authority to evaluate the effectiveness of the electronic surveillance system.

The alarm and surveillance system will be designed to detect any cutting of or climbing on the fence. The system will consist of sensors and high resolution cameras to allow for remote viewing of Disposal Area 1 and Disposal Area 2 24 hours a day via a computer. The sensitivity of the sensors

will be tested in the field following system installation, and will be adjusted as necessary. The cameras will be positioned to provide the optimum viewing of the two disposal areas. The camera positions will be reviewed by EPA prior to installation. The cameras will have infrared light capabilities, so viewing at night will be enhanced. In addition, the cameras will have the ability to rotate and scan inside and outside of the fence. When stationary, the cameras field of viewing will be 110 degrees vertical, 150 degrees horizontal, and 68 degree field of view. In addition, the cameras will allow for the reduction of false alarms that would require Police response. False alarms could be triggered by high winds, animals, etc. Respondent will review the system design with the local Police, so that they are familiar with its operation.

Upon sensing an intrusion, the sensors will activate an alarm located at a base station via phone lines. Security operators monitor the site 24 hours per day, seven days a week throughout the year. The operator will immediately identify the area in which the alarm was triggered. If the area triggered can be viewed by the cameras, the operator will scan the area carefully. If trespassing by a human is observed (inside or outside the disposal area, the operator will immediately contact the South Plainfield Police.

If the area can not be viewed via camera, it will be assumed that a human is attempting to access a disposal area, and the Police will be immediately notified.

The security service records all alarm incidents including time, date, and sensor area. In addition, the operator will provide a brief statement as to what was viewed on the video cameras and whether the Police were notified. This information will be provided to EPA consistent with the progress reports required under the Consent Order. This information can also be provided to EPA at other times if requested.

In addition, the Operators will view videotape from one half hour prior to the alarm to determine if trespassers were present during that time period. The base station will download the videotape from one-half hour before the alarm to

one half hour following the alarm on hard disc or videotape. Once a tape is full (6 hours of viewing), the tape will be given to EPA for archiving.

Again, at any time of the day, from any location, the disposal areas can be called up and viewed from any personal computer. The Respondents Project Manager and EPA OSC will have this access.

A small weatherproof, heated shed will be constructed on the site for mounting of equipment, 100-volt power supply and dial-up telephone line. The shed will be placed on top of crushed stone.

Signs stating that the area is under electronic surveillance will be posted on the fence surrounding the two disposal areas.

- ii. Place "No Trespassing" signs onto the site fence at 100 foot intervals;
 - a. Upon completion of the fence, no trespassing signs will be placed onto the site fence at 100 foot intervals. The signs will be 8" X 11" in size with yellow background and black lettering. The signs will state "Posted No Trespassing Contaminated Area".
- iii. Inspect, repair and maintain the site fence as necessary.

These actions are necessary to abate the threat of direct contact of contaminated soil.

A.1. Work Plan and Implementation

Within fourteen (14) business days after the effective date of this Consent Order, Respondent shall submit to EPA for approval a draft Removal Work Plan to implement the Removal Statement of Work. The draft Removal Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Consent Order. The draft Removal Work Plan shall also include a time schedule for performance of the specific tasks set forth above.

A.2. Health and Safety Plan

Within fourteen (14) business days after the effective date of this Consent Order, Respondent shall submit for EPA approval a site-specific Health and Safety Plan ("HASP") that ensures the

protection of the public health and safety during performance of on-Site work under this Consent Order. The HASP shall conform to the requirements of 29 CFR § 1910.120 - Occupational Safety and Health Administration's Hazardous Waste Operations Standards, as well as EPA's Standard Operating Safety Guides (OSWER, 1988). If performance of any subsequent phase of work required under this Consent Order requires alteration of the HASP, Respondent shall submit to the EPA OSC, those amendments for review and approval.

Respondents shall initiate the work required under the removal action statement of Work within 3 business days of EPA's approval of the removal action Work Plan. The above mitigative measures listed i and ii must be completed within 90 days of EPA's approval of the Work Plan.

This removal action is an interim measure that will be effective in accomplishing the goal of reducing the threats to public health and the environment until a permanent remedy can be implemented. This removal action is not a long-term solution since contaminated soils, sediments and ground water may still exist at the Site. When this removal action is completed, the soils, sediments and ground water at the Site may require further consideration.

APPENDIX 2
STATEMENT OF WORK FOR
REMEDIAL INVESTIGATION AND FEASIBILITY STUDY AT THE
WOODBROOK ROAD DUMP SITE
SOUTH PLAINFIELD, NEW JERSEY

A. INTRODUCTION

1. The purpose of this remedial investigation/feasibility study (RI/FS) is to investigate the nature and extent of contamination at the Woodbrook Road Dump Site ("the Site") and develop and evaluate potential remedial alternatives. The RI and FS are interactive and may be conducted concurrently so that the data collected in the RI influences the development of remedial alternatives in the FS, which in turn affects the data needs and the scope of treatability studies, if needed.

2. The respondent will conduct this RI/FS and will produce a draft RI and FS report that are in accordance with this statement of work, the Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA (U.S. EPA, Office of Emergency and Remedial Response, October 1988), and any other guidance that EPA uses in conducting a RI/FS, as well as any additional requirements in the administrative order. The RI/FS Guidance describes the report format and the required report content. The respondent will furnish all necessary personnel, materials, and services needed, or incidental to, performing the RI/FS, except as otherwise specified in the administrative order.

3. At the completion of the RI/FS, EPA will be responsible for the selection of a site remedy and will document this selection in a Record of Decision (ROD). The remedial action alternative selected by EPA will meet the cleanup standards specified in CERCLA Section 121. That is, the selected remedial action will be protective of human health and the environment, will be in compliance with, or include a waiver of, applicable or relevant and appropriate requirements of other laws, will be cost-effective, will utilize permanent solutions and alternative treatment technologies or resource recovery technologies, to the maximum extent practicable, and will address the statutory preference for treatment as a principal element. The final RI/FS report, as adopted by EPA, and the baseline risk assessment will, with the administrative record, form the basis for the selection of the site's remedy and will provide the information necessary to support the development of the ROD.

4. As specified in CERCLA Section 104(a)(1), as amended by SARA, EPA will provide oversight of the respondent's activities throughout the RI/FS. The respondent will support EPA's

initiation and conduct of activities related to the implementation of oversight activities.

B. TASK I - SCOPING

1. The RI/FS is conducted to gather sufficient data and information necessary to characterize the nature and extent of contamination in order to support the selection of a site remedy that will reduce or eliminate risks to human health or the environment associated with contamination at the site.

2. The RI/FS achieves its objectives by determining the horizontal and vertical distribution and concentration of hazardous substances in the soil, sediment, surface and ground water, building interiors, and in the air, and their association with the site.

3. Before planning RI/FS activities, all existing site data will be thoroughly compiled and reviewed by the Respondents. Specifically, this will include presently available data relating to the varieties and quantities of hazardous substances at the site, and past disposal practices. Data presently available includes the following New Jersey Department of Environmental Protection (NJDEP) and EPA sampling events; 1) soil, surface water, and sediment samples collected at the site on September 11, 1986 by NJDEP; 2) soil, sediment, and surface water samples collected at the site on June 8, 1994 by EPA; 3) surface and subsurface soil samples collected at the site in June and July 1996 by EPA; 4) soil, sediment, water and biota collected along the Bound Brook adjacent to and downstream of the site in August 1997 by EPA; 5) wipe, chip, and vacuum sampling collected in building interiors at the site in March and June, 1997 by EPA; 6) soil/sediment samples collected from the banks and stream bed along a 2.4 mile stretch of the Bound Brook at locations upstream, midstream, and downstream from the site by EPA; 7) surface soil samples collected from residential properties located adjacent to the site by EPA in June 1997; and 8) soil and indoor dust samples collected from residential properties located adjacent to the site by EPA in October 1997. The Respondents will refer to Table 2-1 of the RI/FS Guidance for a comprehensive list of data collection information sources. This information will be utilized in determining additional data needed to characterize the site, better define potential applicable or relevant and appropriate requirements (ARARs), and develop a range of preliminarily identified remedial alternatives. Data Quality Objectives (DQOs) will be established subject to EPA approval which specify the usefulness of existing data. Decisions on the necessary data and DQOs will be made by EPA.

4. The Respondents will conduct a site visit during the scoping phase of the project to assist in developing a conceptual understanding of sources and areas of contamination as well as

potential exposure pathways and receptors at the site. During the site visit the Respondents should observe the site's physiography, hydrology, geology, and demographics, as well as natural resource, ecological and cultural features. This information will be utilized to better scope the project and to determine the extent of additional data necessary to characterize the site, better define potential ARARs, and narrow the range of preliminarily identified remedial alternatives.

5. Once the Respondents have collected and analyzed existing data and conducted a site visit, the specific project scope will be planned. Project planning activities include those tasks described below as well as identifying data needs, developing a work plan, designing a data collection program, and identifying health and safety protocols. The Respondents will meet with EPA regarding the following activities before the drafting of the RI/FS work plan, sampling and analysis plan, and site health and safety plan.

a. RI/FS Work Plan and Schedule (2.3.1)

Within thirty (30) days of the effective date of this Order, Respondent shall submit to EPA an RI/FS Work Plan for the completion of the RI/FS. The RI/FS Work Plan should include, among other things, a detailed schedule for RI/FS activities at the Site. The schedule shall provide for the completion of the RI/FS within twelve (12) months of EPA's approval of the RI/FS Work Plan. If EPA disapproves, or requires revisions to, the RI/FS Work Plan in whole or in part, Respondent shall amend and submit to EPA a revised Work Plan which is responsive to the directions in all EPA comments, within twenty-one (21) days of receiving EPA's comments. The RI/FS Work Plan shall include:

A. Quality Assurance/Quality Control Project Plan (QAPP), which shall be prepared consistent with "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations" (EPA QA/R-5, October 1998), and which shall include the following elements:

1. A detailed description of the sampling, analysis, and monitoring that shall be performed during the RI/FS phase, consistent with this Order. At a minimum, the QAPP shall provide the following:
 - a. A plan for the delineation of contamination in the ground water;
 - b. A plan for the delineation of contamination in the soil;

- c. A plan for the delineation of contamination in the surface water;
 - d. A plan for the delineation of contamination in sediments; and
- ii. All sampling, analysis, data assessment, and monitoring shall be performed in accordance with the "Region II CERCLA Quality Assurance Manual," Revision 1, EPA Region 2, dated October 1989, and any updates thereto, or an alternate EPA-approved test method, and the guidelines set forth in this Order. All testing methods and procedures shall be fully documented and referenced to established methods or standards.
 - iii. The QAPP shall also specifically include the following items:
 - a. An explanation of the way(s) the sampling, analysis, testing, and monitoring will produce data for the RI/FS phase;
 - b. A detailed description of the sampling, analysis, and testing to be performed, including sampling methods, analytical and testing methods, sampling locations and frequency of sampling;
 - c. A map depicting sampling locations; and
 - d. A schedule for performance of specific tasks.
 - iv. In the event that additional sampling locations, testing, and analyses are utilized or required, Respondent(s) shall submit to EPA an addendum to the QAPP for approval by EPA.
 - v. The QAPP shall address the following elements:

Project Management

- a. Title and Approval Sheet
- b. Table of Contents and Document Control Format
- c. Distribution List
- d. Project/Task Organization and Schedule

- e. Problem Definition/Background
- f. Project/Task Description
- g. Quality Objectives and Criteria for Measurement Data
- h. Special Training Requirements and Certification
- i. Documentation and Records

Measurement/Data Acquisition

- j. Sampling Process Design
- k. Sampling Methods Requirements
- l. Sample Handling and Custody Requirements
- m. Analytical Methods Requirements
- n. Quality Control Requirements
- o. Instrument/Equipment Testing, Inspection, and Maintenance Requirements
- p. Instrument Calibration and Frequency
- q. Inspection/Acceptance Requirements for Supplies and Consumables
- r. Data Acquisition Requirements (Non-Direct Measurements)
- s. Data Management

Assessment/Oversight

- t. Assessments and Response Actions
- u. Reports to Management

Data Validation and Usability

- v. Data Review, Validation, and Verification Requirements
 - w. Validation and Verification Methods
 - x. Reconciliation with Data Quality Objectives
- vi. In order to provide quality assurance and maintain quality control with respect to all samples to be collected, Respondent(s) shall ensure the following:
- a. Quality assurance and chain-of-custody procedures shall be performed in accordance with standard EPA protocol and guidance, including the "Region II CERCLA Quality Assurance Manual," Revision 1, EPA Region 2, dated October 1989, and any updates thereto, and the guidelines set forth in this Order.

- b. The laboratory to be used must be specified. If the laboratory participates in the Contract Laboratory Program (CLP) for the analysis to be performed for this investigation, then project specific Performance Evaluation (PE) samples will not be required, as CLP laboratories run EPA PEs on a quarterly basis. If the proposed laboratory does not participate in the CLP for the analyses required, PE samples must be analyzed to demonstrate the capability to conduct the required analysis prior to being approved for use. Once a non-CLP laboratory has been selected, the laboratory should submit a copy of their Laboratory Quality Assurance Program Plan (LQAPP) to EPA for review and approval.

For any analytical work performed, including that done in a fixed laboratory, in a mobile laboratory, or in on-site screening analyses, Respondent must submit to EPA a "Non-CLP Superfund Analytical Services Tracking System" form for each laboratory utilized during a sampling event, within thirty (30) days after acceptance of the analytical results. Upon completion, such documents shall be submitted to the EPA Project Coordinator, with a copy of the form and transmittal letter to:

Regional Sample Control Center Coordinator
U.S. EPA Region 2
Division of Environmental Science &
Assessment
2890 Woodbridge Avenue, Bldg. 209, MS-215
Edison, NJ 08837

- c. The laboratory utilized for analyses of samples must perform all analyses according to accepted EPA methods as documented in the "Contract Lab Program Statement of Work for Organic Analysis, (OLM04.2)" or the latest revision, and the "Contract Lab Program Statement of Work for Inorganic Analysis, (ILM04.0)" or the latest revision, or other EPA approved methods.

- d. Unless indicated otherwise in the approved QAPP, upon receipt from the laboratory, all data shall be validated.
 - e. Submission of the validation package (checklist, report and Form Is containing the final data) to EPA, prepared in accordance with the provisions of Subparagraph g., below.
 - f. Assurance that all analytical data that are validated as required by the QAPP are validated according to the procedures stated in the "EPA Region II Contract Lab Program Organics Data Review and Preliminary Review (SOP #HW-6, Revision 11)," dated June 1996, or the latest revision, and the "Evaluation of Metals Data for the Contract Laboratory Program (SOP #HW-2, Revision 11)," dated January 1992 or the latest revision, or EPA-approved equivalent procedures. Region 2 Standard Operating Procedures are available at: <http://www.epa.gov/region02/smb/sops.htm>
 - g. Unless indicated otherwise in the QAPP, Respondent shall require deliverables equivalent to CLP data packages from the laboratory for analytical data. Upon the EPA's request, Respondent shall submit to the EPA the full documentation (including raw data) for this analytical data. EPA reserves the right to perform an independent data validation, data validation check, or qualification check on generated data.
 - h. Respondent shall insert a provision in its contract(s) with the laboratory utilized for analyses of samples, which will require granting access to EPA personnel and authorized representatives of the EPA for the purpose of ensuring the accuracy of laboratory results related to the Site.
- B. A Health and Safety Plan (HSP), which shall conform to 29 CFR §1910.120, "OSHA Hazardous Waste Operations Standards," and the EPA guidance document, "Standard Operating Safety Guidelines" (OSWER, 1988).

vii. Following approval or modification by EPA, the Work Plan shall be deemed to be incorporated into this Order by reference.

C. TASK II - COMMUNITY RELATIONS

EPA will develop a Site-specific community relations plan and make revisions to this plan as necessary and in accordance with EPA guidance and the NCP. To the extent requested by EPA, Respondents shall provide information supporting EPA's community relations programs.

D. TASK III - SITE CHARACTERIZATION (RI/FS Guidance, Chapter 3)

1. As part of the RI, the Respondents will perform the activities described in this task, including the preparation of a site characterization summary and RI report. The overall objective of site characterization is to describe areas of a site that may pose a threat to human health or the environment. This is accomplished by first determining a site's physiography, geology, and hydrology. Surface and subsurface pathways of migration will be defined. The Respondents will identify the sources of contamination and define the nature, extent, and volume of the sources of contamination, including their physical and chemical constituents as well as their concentrations at incremental locations to background in the affected media. The Respondents will also investigate the extent of migration of this contamination, including building interiors, as well as its volume and any changes in its physical or chemical characteristics, to provide for a comprehensive understanding of the nature and extent of contamination at the site. Using this information, contaminant fate and transport is then determined and projected.

2. During this phase of the RI/FS, the work plan, FSAP, QAPP, and health and safety plan are implemented. Field data are collected and analyzed to provide the information required to accomplish the objectives of the study. The Respondents will notify EPA at least two weeks in advance of the field work regarding the planned dates for field activities, including ecological field surveys, field lay out of the sampling grid, excavation, installation of wells, initiating sampling, installation and calibration of equipment, pump tests, and initiation of analysis and other field investigation activities. The Respondents will demonstrate that the laboratory and type of laboratory analyses that will be utilized during site characterization meets the specific QA/QC requirements and the DQOS of the site investigation as specified in the QAPP. In view of the unknown site conditions, activities are often iterative, and to satisfy the objectives of the RI/FS it may be necessary for the Respondents to modify the work specified in the initial work plan. In addition to the deliverables below, the

Respondents will provide a monthly progress report and participate in meetings at major points in the RI/FS.

a. Field Investigation (3.2)

The field investigation includes the gathering of data to define site physical and biological characteristics, sources of contamination, and the nature and extent of contamination at the site. These activities will be performed by the Respondents in accordance with the RI/FS work plan and QAPP. At a minimum, this shall address the following:

i. Implement and document field support activities (3.2.1)

The Respondents will initiate field support activities following approval of the RI/FS work plan and QAPP. Field support activities may include scheduling, and procuring equipment, office space, laboratory services, and/or contractors. The Respondents may initiate other time critical field support activities, such as obtaining access to the site, prior to approval of the RI/FS work plan and QAPP. The Respondents will provide EPA with reasonable notice prior to initiating field support activities so that EPA may adequately schedule oversight tasks. The Respondents will also notify EPA in writing upon completion of field support activities.

ii. Investigate and define site physical and biological characteristics (3.2.2)

The Respondents will collect data on the physical and biological characteristics of the site and its surrounding areas including the physical physiography, geology, and hydrology, and specific physical characteristics identified in the work plan. This information will be ascertained through a combination of physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and human and ecological receptor populations. In defining the site's physical characteristics the Respondents will also obtain sufficient engineering data (such as pumping characteristics) for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.

iii. Define sources of contamination (3.2.3)

The Respondents will locate each source of contamination. For each location, the areal extent and depth of contamination will be determined by sampling at incremental depths on a sampling grid. The physical characteristics and chemical constituents and their concentrations will be determined for all known and discovered sources of contamination. The Respondents shall conduct sufficient sampling to define the boundaries of the

contaminant sources to the level established in the QA/QC plan and DQOs.

Defining the source of contamination will include analyzing the potential for contaminant release (e.g., long term leaching from soil), contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess treatment technologies.

iv. Describe the nature and extent of contamination (3.2.4)

The Respondents will gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, the Respondents will utilize the information on site physical and biological characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. The Respondents will then implement an iterative monitoring program and any study program identified in the RI/FS work plan (which includes the QAPP) such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media at site can be determined. In addition, the Respondents will gather data for calculations of contaminant fate and transport. This process is continued until the area and depth of contamination are known to the level of contamination established in the QA/QC plan and DQOs. EPA will use the information on the nature and extent of contamination to determine the level of risk presented by the site. Respondents will use this information to help to determine aspects of the appropriate remedial action alternatives to be evaluated.

b. Data Analysis (3.4)

Evaluate site characteristics (3.4.1)

The Respondents will analyze and evaluate the data to describe: (1) site physical and biological characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination and (4) contaminant fate and transport. Results of the site physical characteristics, source characteristics, and extent of contamination analyses are utilized in the analysis of contaminant fate and transport. The evaluation will include the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to EPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to EPA together with a sensitivity analysis. The RI data shall be presented in a format (i.e., WordPerfect version 6.0 or latest on 3.5" computer disk(s)). The Respondents shall

agree to discuss and then collect any data gaps identified by the EPA that is needed to complete the baseline risk assessment. (See "Guidance for Data Useability in Risk Assessment - OSWER Directive # 9285.7- 05 - October 1990.) Also, this evaluation shall include any information relevant to site characteristics necessary for evaluation of the need for remedial action in the baseline risk assessment and for the development and evaluation of remedial alternatives. (See Risk Evaluation of Remedial Alternatives (Part C) - OSWER Directive 9285.7-01C - December 1991.) Analysis of data collected for site characterization will meet the DQOS developed in the QA/QC plan (or revised during the RI).

c. Data Management Procedures (3.5)

The Respondents will consistently document the quality and validity of field and laboratory data compiled during the RI.

i. Document field activities (3.5.1)

Information gathered during site characterization will be consistently documented and adequately recorded by the Respondents in well maintained field logs and laboratory reports. The method(s) of documentation must be specified in the work plan and/or the QAPP. Field logs must be utilized to document observations, measurements, and significant events that have occurred during field activities. Laboratory reports must document sample custody, analytical responsibility, analytical results, adherence to prescribed protocols, nonconformity events, corrective measures, and/or data deficiencies.

ii. Maintain sample management and tracking (3.5.2; 3.5.3.)

The Respondents will maintain field reports, sample shipment records analytical results, and QA/QC reports to ensure that only validated analytical data are reported and utilized in the evaluation of remedial alternatives. Analytical results developed under the work plan will not be included in any site characterization reports unless accompanied by or cross-referenced to a corresponding QA/QC report. In addition, the Respondents will establish a data security system to safeguard chain-of custody forms and other project records to prevent loss, damage, or alteration of project documentation.

d. Site Characterization Deliverables (3.6)

The Respondents will prepare the preliminary site characterization summary and the remedial investigation report.

Preliminary Site Characterization Summary (3.6.2)

After completing field sampling and analysis, the Respondents will prepare a concise characterization summary. This summary will review the investigative activities that have taken place, and describe and display site data documenting the location and characteristics of surface and subsurface feature and contamination at the site including the affected medium, types, location types, physical state, concentration of contaminants and quantity. In addition, the location, dimensions, physical condition and varying concentrations of each contaminant throughout each source and the extent of contaminant migration through each of the affected media will be documented. The site characterization summary will provide EPA with a preliminary reference for developing the risk assessment, and evaluating the development and screening of remedial alternatives and the refinement and identification of ARARS.

E. TASK IV - IDENTIFICATION OF CANDIDATE TECHNOLOGIES (4.2)

The Respondents will identify in a technical memorandum, subject to EPA's review and approval, candidate technologies for a treatability studies program. The memorandum will be submitted after the last set of analytical results collected during the RI have been validated. The listing of candidate technologies will cover the range of technologies required for alternatives analysis (Task 8.2). The specific data requirements for the testing program will be determined and refined during site characterization and the development and screening of remedial alternatives (Tasks 3 and 8, respectively).

F. TASK V - TREATABILITY STUDIES; AS NECESSARY

Treatability testing will be performed by the Respondents, at EPA's request, to assist in the detailed analysis of alternatives. In addition, if applicable, testing results and results and operating conditions will be used in the detailed design of the selected remedial technology. The following activities will be performed by the Respondents.

- i. Conduct literature survey and determine the need for treatability testing (4.2.2)

The Respondents will conduct a literature survey to gather information on performance, relative costs, applicability, removal efficiencies, operation and maintenance (O&M) requirements, and implementability of candidate technologies. If practical candidate technologies have not been sufficiently demonstrated, or cannot be adequately evaluated, or cannot be adequately evaluated for this site on the basis of available information, treatability testing will be conducted. Where it is determined by EPA that treatability testing is required, and

unless the Respondents can demonstrate to EPA's satisfaction that they are not needed, the Respondents will submit a statement of work to EPA outlining the steps and data necessary to evaluate and initiate the treatability testing program.

ii. Evaluate treatability studies (4.2.3)

Once a decision has been made to perform treatability studies, the Respondents and EPA will decide on the type of treatability testing to use (e.g., bench versus pilot). Because of the time required to design, fabricate, and install pilot scale equipment as well as perform testing for various operating conditions, the decision to perform pilot testing should be made as early in the process as possible or minimize potential delays of the FS. To assure that a treatability testing program is completed on time, and with accurate results, the Respondents will either submit a separate treatability testing work plan or an amendment to the original site work plan EPA review and approval.

iii. Treatability Testing and Deliverables (4.3)

The deliverables that are required, in addition to the memorandum identifying candidate technologies, where treatability testing is conducted include a work plan, a sampling and analysis plan, and a final treatability evaluation report. EPA may also require a treatability study and safety plan, where appropriate.

iv. Treatability testing work plan (4.3.2)

The Respondents will prepare a treatability testing work plan or amendment to the original site work plan for EPA review and approval describing the site background, remedial technology(ies) to be tested, test objectives, experimental procedures, treatability conditions to be tested, measurements of performance, analytical methods, data management and analysis, health and safety, and residual waste management. The DQOs for treatability testing should be documented as well. If pilot-scale treatability testing is to be performed, the pilot-scale work plan will describe pilot plant installation and start-up, pilot plant operation and maintenance procedures, operating conditions to be tested, a sampling plan to determine pilot plant performance, and a detailed health and safety plan. If testing is to be performed off-site, the Respondents will address all necessary permitting requirements to the satisfaction of appropriate authorities.

v. Treatability study QAPP(4.3.3)

Within thirty (30) days of the identification by EPA of the need for a separate or revised QAPP, and HSP, Respondents shall submit to EPA a revised QAPP and HSP as appropriate. If EPA

disapproves of or requires revisions to the revised QAPP and HSP, in whole or in part, Respondents shall amend and submit to EPA a revised treatability study QAPP and HSP, which is responsive to the directions in all EPA comments, within twenty-one (21) days of receiving EPA's comments.

If the original QAPP is not adequate for defining the activities to be performed during the treatability test, a separate treatability study QAPP or amendment to the original QAPP for the Site will be prepared by the Respondents for EPA review and approval. Task 1 of this Statement of Work provides additional information on the requirements of the QAPP.

vi. Treatability study health and safety plan (4.3.4)

If the original health and safety plan is not adequate for defining the activities to be performed during the treatment tests, a separate or amended health and safety plan will be developed by the Respondents. Task 1 of this statement of work provides additional information on the requirements of the health and safety plan. EPA does not "approve" the treatability study health and safety plan.

vii. Treatability study evaluation report (4.3.5)

Following completion of treatability testing, the Respondents will analyze and interpret the testing results in a technical report to EPA. Depending on the sequences of activities, this report may be a part of the RI/FS report or a separate deliverable. The report will evaluate each technology's effectiveness, implementability, cost and actual results as compared with predicted results as compared with predicted results. The report will also evaluate full scale application of the technology, including a sensitivity analysis identifying the key parameters affecting full-scale operation.

G. TASK VI - BASELINE RISK ASSESSMENT

Respondent will prepare a Baseline Human Health Risk Assessment (BHHRA) for the Site which shall be incorporated by the Respondent into the RI. Respondent shall provide EPA with the following deliverables:

1. Baseline Human Health Risk Assessment.

A. Actual and potential cancer risks and non-cancer hazards to human health shall be identified and characterized in accordance with CERCLA, the NCP, and EPA guidances including, but not limited to, the RI/FS Guidance, "Land Use in the CERCLA Remedy Selection Process" (OSWER Directive No. 9355.7-04) and the definitions and provisions of

"Risk Assessment Guidance for Superfund ("RAGS"), " Volume 1, "Human Health Evaluation Manual," (December 1989) (EPA/540/1-89/002).

B. Representative contaminants and associated concentrations in media including groundwater, soil, sediment, and surface water for the BHHRA shall be determined utilizing all currently available media-specific analytical data generated during the RI/FS.

C. Memorandum on Exposure Scenarios and Assumptions. Within 45 days after approval of the RI/FS work plan, Respondent shall submit a memorandum describing the exposure scenarios and assumptions, taking into account for the BHHRA the present and reasonably anticipated future land use of the Site. The memorandum should include appropriate text describing the conceptual site model and exposure routes of concern for the site, and include a completed RAGS Part D Table 1. This table shall describe the pathways that will be evaluated in the BHHRA, the rationale for their selection, and a description of those pathways that will not be evaluated. In addition, the Memorandum shall include a completed RAGS Part D Table 4 describing the exposure pathway parameters with appropriate references to EPA's 1991 Standard Default Assumptions and updated guidance developed by EPA. If EPA disapproves or requires revisions to the memorandum, in whole or in part, which disapproval or required revisions shall be provided in writing with reasons for the disapproval or directions for revisions to make the submittal approvable, Respondent shall amend and submit to EPA a revised memorandum which is responsive to the directions in all EPA comments, within 14 days of receiving EPA's comments.

D. Pathway Analysis Report (PAR). The Respondent shall prepare and submit a PAR within forty-five (45) days after receipt of the last set of validated data. The PAR shall be developed in accordance with OSWER Directive 9285.7-01D-1 dated December 17, 1997 (or more recent version), entitled, "Risk Assessment Guidelines for Superfund Part D" and other appropriate guidance in Appendix 1A and updated thereto. The PAR shall contain all the information necessary for a reviewer to understand how the risks at the site will be assessed. The PAR will build on the Memorandum on Exposure Scenarios and Assumptions

(see C above) describing the risk assessment process and how the risk assessment will be prepared. The PAR shall include completed RAGS Part D Tables 2, 3, 5, and 6 as described below. The PAR must be reviewed and approved by EPA prior to the submission of the draft BHHRA.

i. Chemicals of Concern (COC). The PAR shall contain all the information necessary for a reviewer to understand how the risks at the site will be evaluated.

a. Based on the results of the Site Characterization Summary Report the Respondent shall list the hazardous substances present in all sampled media (e.g., groundwater, soils, sediment, etc.) and the contaminants of potential concern ("COPCs") as described in the Risk Assessment Guidance for Superfund Part A.

b. Table 2-Selection of COCs. Representative contaminants and associated concentrations in sample media for the PAR shall be determined utilizing all currently available media-specific validated analytical data generated during the RI/FS. The selection of COCs shall follow Risk Assessment Guidance for Superfund (Part A) and before chemicals are deleted as COCs they shall be evaluated against the residential PRGs from Region IX. The COCs shall be presented in completed RAGS Part D Table 2 format.

ii. Table 3 - Media Specific Exposure Point Concentrations. Using the chemicals selected in Table 2, this Table shall summarize the Exposure Point Concentrations for all COCs for the various media. The calculation of the Exposure Point Concentration shall follow the 1992 Guidance Document on the calculation of the 95% Upper Confidence Limit (UCL) on the Mean. In those cases where the 95% UCL exceeds the mean the maximum concentration shall be used as the EPC.

iii. Tables 5 and 6 - Toxicological Information. This section of the PAR shall provide the toxicological data (e.g., Cancer Slope Factors, Reference Doses, Reference Concentrations, Weight of Evidence for Carcinogens, and adjusted dermal toxicological factors where appropriate) for the

chemicals of concern. The toxicological data shall be presented in completed RAGS Part D Tables 5 and 6. The source of data in order of priority are: EPA's Integrated Risk Information System (IRIS), Health Effects Assessment Summary Tables (HEAST)-1997 and contact with EPA's National Center for Environmental Assessment. To facilitate a timely completion of the PAR, the Respondent shall submit a list of chemicals for which IRIS values are not available to EPA as soon as identified thus allowing EPA to facilitate obtaining this information from EPA's National Center for Environmental Assessment.

If EPA disapproves, or requires revisions to, the PAR, in whole or in part, Respondent shall amend and submit to EPA a revised PAR which is responsive to the directions in all of EPA's written comments within twenty-one (21) days of receipt of EPA's comments.

E. Baseline Human Health Risk Assessment of the RI Report. Within forty-five (45) days of EPA's approval of the PAR, the Respondent shall submit to EPA a Draft BHHRA for inclusion in the RI. The submittal shall include completed RAGS Part D Tables 7 through 10 summarizing the calculated cancer risks and non-cancer hazards and appropriate text in the risk characterization with a discussion of uncertainties and critical assumptions (e.g., background concentrations and conditions). The Respondent shall perform the BHHRA in accordance with the approach and parameters described in the approved Memorandum of Exposure Scenarios and Assumptions and the PAR describe above. Text and tables from these previously approved reports shall be included in the appropriate sections of the BHHRA.

If EPA disapproves or requires revisions to the section, in whole or in part, which disapproval or required revision shall be provided in writing with reasons for the disapproval or directions for revisions to make the submittal approvable, Respondent shall amend and submit to EPA a revised report which is responsive to the directions in all EPA comments, within 30 days of receiving EPA's comments. The approved BHHRA shall be incorporated into the RI report.

1. Baseline Ecological Risk Assessment

Within forty-five (45) day after approval of the RI/FS work plan, the Respondent shall submit a Screening-Level Ecological Risk Assessment (SLERA) in accordance with current Superfund ecological risk assessment guidance (Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments [ERAGS], USEPA, 1997 [EPA/540-R-97-006]). The SLERA shall include a comparison of the maximum contaminant concentrations in each media of concern to appropriate conservative ecotoxicity screening values (e.g., NYSDEC Ambient Water Quality Standards and Guidance Values (AWQS), USEPA's Ambient Water Quality Criteria (AWQC), and NYSDEC Technical Guidance for Screening Contaminated Sediments), and should use conservative exposure estimates. EPA will review and approve the SLERA and determine whether a full Baseline Ecological Assessment is required.

If EPA determines that a full Baseline Ecological Assessment is required and so notifies Respondent, Respondent shall, within sixty (60) days thereafter, submit the full Baseline Ecological Assessment. Actual and potential ecological risks shall be identified and characterized in accordance with CERCLA, the NCP, and EPA guidances including, but not limited to, "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments," (1997) (EPA/540-R-97-006), ERAGS, dated June 5, 1997 (or most recent guidance). Respondent shall submit to EPA a baseline ecological risk assessment section for inclusion in the RI report. If EPA disapproves of or requires revisions to the updated ecological assessment, in whole or in part, which disapproval or required revisions shall be provided in writing with reasons for the disapproval or directions for revisions to make the submittal approvable, Respondent shall amend and submit to EPA a final, updated ecological assessment which is responsive to the directions in all EPA comments. The Respondent shall evaluate and assess the risk to the environment posed by site contaminants. As part of this subtask, the Respondent shall perform the following activities:

- a. Draft Ecological Risk Assessment Report. The Respondent shall prepare a draft Ecological Risk Assessment Report that addresses the following:

i. Hazard Identification (sources). The Respondent shall review available information on the hazardous substances present at the site and identify the major contaminants of concern.

ii. Dose-Response Assessment. The Respondent shall identify and select contaminants of concern based on their intrinsic toxicological properties.

iii. Characterization of Site and Potential Receptors. The Respondent shall identify and characterize environmental exposure pathways.

iv. Select Chemicals, Indicator Species, and End Points. In preparing the assessment, the Respondent will select representative chemicals, indicator species (species which are especially sensitive to environmental contaminants), and end points on which to concentrate.

v. Exposure Assessment - The exposure assessment shall identify the magnitude of actual or environmental exposures, the frequency and duration of these exposures, and the routes by which receptors are exposed. The exposure assessment shall include an evaluation of the likelihood of such exposures occurring and shall provide the basis for the development of acceptable exposure levels. In developing the exposure assessment, the Respondent shall develop reasonable maximum estimates of exposure for both current land use conditions and potential land use conditions at the site.

vi. Toxicity Assessment/Ecological Effects Assessment. The toxicity and ecological effects assessment shall address the types of adverse environmental effects associated with chemical exposures, the relationships between magnitude of exposures and adverse effects, and the related uncertainties for contaminant toxicity (e.g., weight of evidence for a chemical's carcinogenicity).

vii. Risk Characterization. During risk characterization, chemical-specific toxicity information, combined with quantitative and qualitative information from the exposure

assessment, shall be compared to measured levels of contaminant exposure levels and the levels predicted through environmental fate and transport modeling. These comparisons shall determine whether concentrations of contaminants at or near the site are affecting or could potentially affect the environment.

viii. Identification of Limitations/Uncertainties. The Respondent shall identify critical assumptions (e.g., background concentrations and conditions) and uncertainties in the report.

ix. Site Conceptual Model. Based on contaminant identification, exposure assessment, toxicity assessment, and risk characterization, the Respondent shall develop a conceptual model of the site.

- b. Final Ecological Risk Assessment Report: Within 30 days of receiving EPA's comments on the Draft Ecological Assessment Report, the Respondent shall amend and submit to EPA a final report which is responsive to the directions in all EPA comments.

H. TASK VII - REMEDIAL INVESTIGATION REPORT

1. Draft Remedial Investigation Report

In accordance with the schedule in the approved RI/FS work plan, the Respondent shall submit a draft RI report that is consistent with the "Region II RI Report Guidelines."

2. Final Remedial Investigation Report

Within 30 days of receiving EPA's comments on the Draft RI Report, the Respondent shall amend and submit to EPA a final report which is responsive to the directions in all EPA comments.

I. TASK VIII - DEVELOPMENT AND SCREENING OF REMEDIAL ALTERNATIVES

The development and screening of remedial alternatives is performed to develop an appropriate range of waste management options that will be evaluated. This range of alternatives should include options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options

involving both treatment and containment; and a no-action alternative. The following activities will be performed as a function of the development and screening of remedial alternatives.

1. Development and Screening of Remedial Alternatives(5.2)

The Respondents will begin to develop and evaluate a range of appropriate waste management options that a minimum ensure protection of human health and the environment, concurrent with the RI site characterization task.

i. Develop general response action(5.2.2)

The Respondents will develop general actions for each medium of interest defining containment, treatment, excavation, pumping, or other actions, singly or in combination, to satisfy the remedial action objectives.

ii. Identify areas or volumes of media(5.2.3)

The Respondents will identify areas or volumes of media to which general response actions may apply, taking into account requirements for protectiveness as identified in the remedial action objectives. The chemical and physical characterization of the site will also be taken into account.

iii. Assemble and document alternatives(5.2.6)

The Respondents will assemble selected representative technologies into alternatives for each affected medium or operable unit.

Together, all of the alternatives will represent a range of treatment and containment combinations that will address either the site or the operable unit as a whole. A summary of the assembled alternatives and their related action-specific ARARS will be prepared by the Respondents for inclusion in a technical memorandum.

The reasons for eliminating alternatives during the preliminary screening process must be specified.

iv. Refine alternatives (5.2.7)

The Respondents will refine the remedial alternatives to identify contaminant volume addressed by the proposed process and sizing of critical unit operations as necessary. Sufficient information will be collected for an adequate comparison of alternatives. PRGs for each chemical in each medium will also be modified as necessary to incorporate any new risk assessment information presented in the baseline risk assessment report.

Additionally, action-specific ARARs will be updated as the remedial alternatives are refined.

v. Conduct and document screening evaluation of each alternative(5.2.8)

The Respondents may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for detailed analysis. If necessary, the screening of alternatives will be conducted to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis. As appropriate, the screening will preserve the range of treatment and containment alternatives that was initially developed. The range of remaining alternatives will include options that use treatment technologies and permanent solutions to the maximum extent practicable. The Respondents will make a presentation to EPA and the State, identifying the remedial action objectives and summarizing the development and preliminary screening of remedial alternatives.

2. Alternatives Development and Screening Deliverables(5.3)

The Respondents will prepare a technical memorandum summarizing the work performed in and the results of each task above, including an alternatives array summary. The memorandum will also summarize the reasoning employed in screening, arraying alternatives that remain after screening, and identifying the action-specific ARARs for the alternatives that remain after screening. These will be modified by the Respondents if required by EPA's comments to assure identification of a complete and appropriate range of viable alternatives to be considered in the detailed analysis. This deliverable will document the methods, rationale, and results of the alternatives screening process.

3. Detailed analysis of remedial alternatives

The detailed analysis will be conducted by the Respondents to provide EPA with the information needed to allow for the selection of a site remedy. This analysis is the final task to be performed by Respondents during the FS.

i. Detailed Analysis of Alternatives (6.2)

The Respondents will conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of nine evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

ii. Apply nine criteria and document analysis (6.2.1-6.2.4)

The Respondents will apply nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with, or include a waiver of, ARARS; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment; (2) compliance with ARARS; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance.

(Note: criteria 8 and 9 are considered after the RI/FS report has been released to the general public.) For each alternative the respondents should provide: (1) a description of the alternative that outlines the waste management strategy involved and identifies the key ARARS associated with each alternative, and (2) a discussion of the individual criterion assessment. If the Respondents do not have direct input on criteria (8) state (or support agency) acceptance and (9) community acceptance, these will be addressed by EPA.

iii. Compare alternatives against each other and document the comparison of alternatives (6.2.5; 6.2.6)

The Respondents will perform a comparative analysis between the remedial alternatives. That is, each alternative will be compared against the others using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative are reserved by EPA. The Respondents will prepare a technical memorandum summarizing the results of the comparative analysis.

iv. Detailed Analysis Deliverables (6.3)

In addition to the technical memorandum summarizing the results of the comparative analysis, the respondents will submit a draft FS report to EPA for review and approval. Once EPA's comments have been addressed by the Respondents to EPA's satisfaction, the final FS report may be bound with the final RI report.

J. TASK IX - FEASIBILITY STUDY REPORT (6.4)

The Respondent shall prepare a Feasibility Study (FS) Report consisting of a detailed analysis of alternatives and a cost-effectiveness analysis, in accordance with the National Contingency Plan (NCP), 40 CFR Part 300, as well as the most

recent guidance. Within thirty (30) days of the Task VIII presentation to EPA, Respondent shall submit to EPA a Draft FS report which reflects the findings in the approved Baseline Risk Assessment. Respondent shall refer to the RI/FS Work Plan and the RI/FS Guidance and the SOW for report content and format. Within fourteen (14) days of submitting the draft FS report, Respondent shall make a presentation to EPA and the State at which Respondent shall summarize the findings of the draft FS report and discuss EPA's and the State's preliminary comments and concerns associated with the draft FS report. If EPA disapproves of or requires revisions to the draft FS report, in whole or in part, Respondent shall amend and submit to EPA a revised draft FS report which is responsive to the directions in EPA's comments, within twenty-one (21) days of receiving EPA's written comments.

The Respondent will prepare a draft FS report for EPA review and comment. The FS report shall contain the following:

- Summarize Feasibility Study objectives
- Summarize remedial objectives
- Articulate general response actions
- Identification and screening of remedial technologies
- Remedial alternatives description
- Detailed analysis of remedial alternatives
- Summary and conclusions

The Respondent's technical feasibility considerations shall include the careful study of any problems that may prevent a remedial alternative from mitigating site problems. Therefore, the site characteristics from the RI must be kept in mind as the technical feasibility of the alternative is studied. Specific items to be addressed are reliability (operation over time), safety, operation and maintenance, ease with which the alternative can be implemented, and time needed for implementation.

REFERENCES FOR CITATION

The following list, although not comprehensive, comprises many of the regulations and guidance documents that apply to the RI/FS process:

The (revised) National Contingency Plan

"Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," U.S. EPA, Office of Emergency and Remedial Response, October 1988, OSWER Directive No. 9355.3-01

"Interim Guidance on Potentially Responsible Party Participation in Remedial Investigation and Feasibility Studies," U.S. EPA, Office of Waste Programs Enforcement, Appendix A to OSWER Directive No. 9355.3-01.

"Guidance on Oversight of Potentially Responsible Party Remedial Investigations and Feasibility Studies," U.S. EPA, Office of Waste Programs Enforcement, OSWER Directive No. 9835.3

"A Compendium of Superfund Field Operations Methods," Two Volumes, U.S. EPA, Office of Emergency and Remedial Response, EPA/540/P-87/001a, August 1987, OSWER Directive No. 9355.0-14.

"EPA NEIC Policies and Procedures Manual," May 1978, revised November 1984, EPA-330/9-78-001-R.

"Data Quality Objectives for Remedial Response Activities," U.S. EPA, Office of Emergency and Remedial Response and Office of Waste Programs Enforcement, EPA/540/G-87/003, March 1987, OSWER Directive No. 9335.0-7B.

"Guidelines and Specifications for Preparing Quality Assurance Project Plans," U.S. EPA, Office of Research and Development, Cincinnati, OH, QAMS-004/80, December 29, 1980.

"Interim Guidelines and Specifications for Quality Assurance Project Plans," U.S. EPA, Office of Emergency and Remedial Response, QAMS-005/80, December 1980.

"Users Guide to the EPA Contract Laboratory," U.S. EPA, Sample Management Office, August 1982.

"Interim Guidance with Applicable or Relevant and Appropriate Requirements," U.S. EPA, Office of Emergency and Remedial Response, July 9, 1987, OSWER Directive No. 9234.0-05.

"CERCLA Compliance with Other Laws Manual," Two Volumes, U.S. EPA, Office of Emergency and Remedial Response, August 1988 (draft), OSWER Directive No. 9234.1-01 and -02.

"Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites," U.S. EPA, Office of Emergency and Remedial Response, (draft), OSWER Directive No. 9283.1-2.

"Draft Guidance on Superfund Decision Documents," U.S. EPA, Office of Emergency and Remedial Response, March 1988, OSWER Directive No. 9355.-02

"Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual" (Part A), EPA/540/1-89/002

"Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual" (Part B), EPA/540/R-92/003

"Risk Assessment Guidance for Superfund - Volume II Environmental Evaluation Manual," March 1989, EPA/540/1-89/ 001

"Guidance for Data Useability in Risk Assessment," October, 1990, EPA/540/G-90/008

"Performance of Risk Assessments in Remedial Investigation/Feasibility Studies (RI/FSS) Conducted by Potentially Responsible Parties (PRPs)," August 28, 1990, OSWER Directive No.9835.15.

"Risk Evaluation of Remedial Alternatives" (Part C), December 1991, OSWER Directive 9285.7-01C.

"Role of the Baseline Risk Assessment in Superfund Remedy Selection Decisions," April 22, 1991, OSWER Directive No. 9355.0-30.

"Supplemental Guidance to RAGS: Calculating the Concentration Term," May 1992, OSWER Directive 9285.7-081.

"Health and Safety Requirements of Employed in Field Activities," U.S. EPA, Office of Emergency and Remedial Response, July 12, 1981, EPA Order No. 1440.2.

OSHA Regulations in 29 CFR 1910.120 (Federal Register 45654, December 19, 1986).

"Interim Guidance on Administrative Records for Selection of CERCLA Response Actions," U.S. EPA, Office of Waste Programs Enforcement, March 1, 1989, OSWER Directive No. 9833.3A.

"Community Relations in Superfund: A Handbook," U.S. EPA, Office of Emergency and Remedial Response, June 1988, OSWER Directive No. 9230.0#3B.

"Community Relations During Enforcement Activities And Development of the Administrative Record," U.S. EPA, Office of Programs Enforcement, November 1988, OSWER Directive No. 9836.0-1a.

EXHIBIT H

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Attorneys for Defendant
Cornell-Dubilier Electronics, Inc.

HOME INSURANCE COMPANY,
PLAINTIFF,

v.

CORNELL-DUBILIER
ELECTRONICS, INC., ET AL.,
DEFENDANTS.

CORNELL-DUBILIER
ELECTRONICS, INC., ET AL.,
PLAINTIFFS,

v.

UNITED INSURANCE COMPANY,
DEFENDANT.

CORNELL-DUBILIER
ELECTRONICS, INC., ET AL.,
PLAINTIFFS,

v.

COLUMBIA CASUALTY COMPANY,
ET AL.,
DEFENDANTS.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY**

Civil Action
Docket No. MER-L-5192-96

Civil Action
Docket No. MER-L-2773-02

Civil Action
Docket No. MER-L-463-05

DONALD F. PHELPS
CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED & FILED

MAR 16 2007

Sue Regan
SUE REGAN
DEPUTY CLERK OF SUPERIOR COURT

A True Copy
Sue Regan
SUE REGAN
Deputy Clerk of Superior Court

**[REDOCTED] ORDER GRANTING SUMMARY JUDGMENT
IN FAVOR OF THE POLICYHOLDERS ON
THE ISSUE OF COVERAGE FOR THE DISMAL SWAMP SITE**

THIS MATTER having been opened to the Court upon the application of
attorneys for defendant Cornell-Dubilier Electronics, Inc. ("CDE") and Federal Pacific Electric

Company ("FPE", collectively the "Policyholders") by way of a Motion for Summary Judgment on the Issue of Coverage for the Dismal Swamp Site against Certain Underwriters at Lloyd's, London and the London Market Insurance Companies, and North River Insurance Company (collectively the "LMI"), ~~Columbia Casualty Company and Continental Casualty Company~~ ("CNA"), and ~~United Insurance Company~~ ("United") (collectively the "Insurers") pursuant to R.

4:46-2 of the New Jersey Rules Governing Civil Practice, and the Court having considered the submissions of the parties and the arguments of counsel, and for good cause shown, *for the reasons set forth on the record;*

IT IS on this 19th day of March, 2007,

ORDERED that the motion for partial summary judgment in favor of the Policyholders on the issue of coverage for the Dismal Swamp Site is granted and that the following were found by the Court:

1. There were one or more "occurrences" concerning the Dismal Swamp Site under the insurance policies issued by the LMI, ~~CNA and United~~ listed on Attachment A to this Order (the "Policies");

2. The Policies provide coverage for the Policyholders' claims for the Dismal Swamp Site;

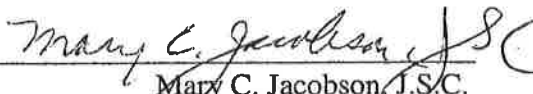
3. *CDE disposed of waste at Dismal Swamp prior to July 1, 1962.*
~~3. Any of CDE's waste that was disposed at the Dismal Swamp Site was disposed beginning in 1959; property damage at and from the Dismal Swamp Site caused by environmental contamination continued until at least March of 2000.~~

4. The Court reserves for a subsequent phase of trial resolution of all issues relating to allocation, the quantum of damages, and bad faith; and it is further

ORDERED that a copy of this order shall be served upon all counsel of record
within seven (7) days of the date hereof.

☒ **OPPOSED**

☐ **UNOPPOSED**



Mary C. Jacobson, J.S.C.

Attachment A

Insurance Policies at Issue for Purposes of the Dismal Swamp Site

I. Policies Issues by Certain Underwriters at Lloyd's, London and the London Market Insurance Companies

Policy Description
Lloyds Insurance Policy No. CK4294 Coverage Period: 5/21/59-7/1/62
Lloyds Insurance Policy No. CK4295 Coverage Period: 5/21/59-7/1/62
Lloyds Insurance Policy No. K56745. Coverage Period: 5/21/59-7/1/62
Lloyds Insurance Policy No. K56746. Coverage Period: 5/21/59-7/1/62
Lloyds Insurance Policy No. K56747. Coverage Period: 5/21/59-7/1/62
Lloyds Underwriters Policy No. 614/NC5606. Coverage Period: 3/29/79-7/1/79
Lloyds Underwriters Policy No. 614/NC5607. Coverage Period: 3/29/79-7/1/79
Lloyds Underwriters Policy No. 614/NC5608. Coverage Period: 3/29/79-7/1/79
Lloyds Underwriters Policy No. 614-NC 7762. Coverage Period: 7/1/79-7/1/80
Lloyds Underwriters Policy No. 64/NC 7760. Coverage Period: 7/1/79-7/1/80
Lloyds Underwriters Policy No. 64/NC 7761. Coverage Period: 7/1/79-7/1/80

II. Policies Issued by North River Insurance Company

Policy Description
North River Insurance Policy No. JU 0313. Coverage Period: 4/1/77-4/1/78
North River Insurance Policy No. JU 0506. Coverage Period: 4/1/78-4/1/79

III. Policies Issued by Columbia Casualty Company and Continental Casualty Company

Policy Description
Continental Cas. Co. Policy No. RDX 893-64-73. Coverage Period: 7/1/72 - 7/1/75
Columbia Cas. Co. Policy No. RDX 416-97-12. Coverage Period: 7/1/79 - 7/1/80
Columbia Cas. Co. Policy No. RDX 416-97-13. Coverage Period: 7/1/79 - 7/1/80

IV. Policy Issued by Wrenford Insurance Co. and Assumed by United Insurance Company

Policy Description
Wrenford Insurance Policy No. B49027. Coverage Period: 3/29/79-7/1/79